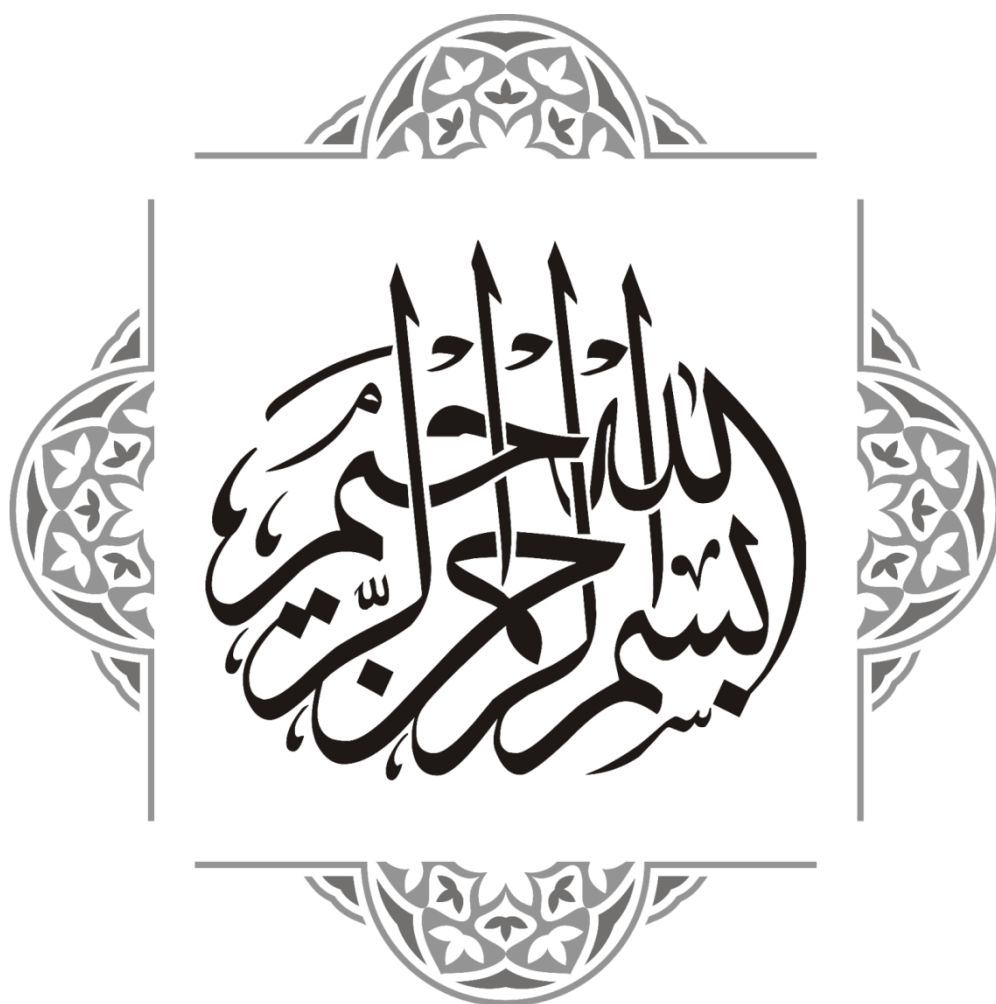


مسيرة شهر

DISTANCE OF A MONTH'S JOURNEY PUBLICATIONS

TAWHID WA'L QITAL FIQH OF JIHAD





توحيد والقتال

TAWHĪD WA'L-QITĀL FIQH OF JIHĀD

**Revised Edition
2018**

CONTENTS

| Chapter | Page |
|---|------|
| Editor's Note | 5 |
| Biography of Shaykh Hārith ibn Ghāzī an-Nathārī | 8 |
| Chapter 1: <i>Tawhīd</i> and its Nullifiers | 10 |
| Chapter 2: Classifications of the <i>Kuffār</i> | 30 |
| Chapter 3: Classifications of Lands | 41 |
| Chapter 4: Rulings on (Legitimately) Spilling the Blood of the Muslim | 51 |
| Chapter 5: Types of Apostasy and the ruling(s) on the Apostate | 60 |
| Chapter 6: Rulings on the 'Warring Party' | 72 |
| Bibliography | 82 |



All praises belong to Allāh, and may His Peace and Blessings be upon His final Prophet and Messenger

EDITOR'S NOTE

This treatise is based on the six part lecture series entitled: ‘*Tawhīd wa'l-Qitāl*’,¹ delivered by Shaykh Hārith an-Nadhārī, may Allāh accept him. It is centred around the *Hadīth*: *The Messenger of Allāh* ﷺ said: “I have been ordered to fight against the people until they testify that there is none worthy of worship except Allāh and that Muhammad is the Messenger of Allāh...” Based upon this *Hadīth*, the Shaykh has derived various benefits relating to *Tawhīd* and *Jihād*. In addition, a number of the legal rulings (*Ahkām*)² pertaining to *Jihād* have been included within the Shaykh’s lectures on this topic.

The significance of this topic cannot be overstated, especially for the *Mujāhidīn*. As it is *Wājib* for the Muslim today to wage *Jihād*, it also becomes *Wājib* for him to have knowledge of the Islamic rulings surrounding *Jihād*, and train and prepare himself to engage in *Jihād*. As Allāh says:

﴿وَأَعِدُّوا لَهُمْ مَا اسْتَطَعْتُمْ﴾

﴿*And prepare against them whatever you are able...*﴾³

Likewise, the principle in *Fiqh* states, ‘that which is required to fulfil a *Wājib* is itself *Wājib*,’⁴ therefore in order for the Muslim to avoid being like those

¹ *Tawhīd wa'l-Qitāl*: Monotheism and Fighting (in the cause of Allāh)

² *Ahkām* (أحكام), pl. of *Hukm* (حكم): Islamic ruling

³ *Al-Anfāl* (8):60

who Allāh described as *those who are astray*⁵ he must precede his actions with knowledge.

Due to the efforts of those who wish to undermine and distort the pristine teachings of Islām, the worship of *Jihād* and all of the issues surrounding it, have been largely obscured from the Muslims. We find that Islāmic books and lectures are filled with every issue, big and small, detailing the intricacies and finer points of every act of *'Ibādah* under the sun, however the Muslim is hard pressed to find a single book or lecture giving *Jihād* the justice it deserves, especially in the English language. This is despite the command of Allāh:

﴿فَقَاتِلْ فِي سَبِيلِ اللَّهِ لَا تُكَلَّفُ إِلَّا نَفْسَكَ ۚ وَحَرِّضِ الْمُؤْمِنِينَ﴾

So fight, [O Muhammad], in the cause of Allāh; you are not held responsible except for yourself. And incite the believers...⁶

Once the Prophet ﷺ migrated to Madinah, he waged *Jihād* until he returned to Allāh,⁷ and likewise his companions raised and carried on his blessed banner until Allāh open for them the kingdoms and treasures of the Byzantines and the Persians. The early believers were the deepest in knowledge and closest in their connection to Allāh the Exalted, and they never left *Jihād* or abandoned their longing for Martyrdom in the cause of Allāh. So much so that Allāh's Messenger ﷺ, the one who was free from sin, even ardently desired Martyrdom for himself, despite the fact that Allāh had promised to protect him from all of his enemies. He ﷺ wished,

⁴ ما لا يتم الواجب إلا به فهو واجب

⁵ *Al-Fātihah* (1):7

⁶ *An-Nisā'* (4):84

⁷ The scholars differed over the exact number of battles the Prophet ﷺ led. In *Sahīh Muslim*, Jābir relates that he ﷺ led twenty-one battles, while Zayd ibn Arqam reports seventeen. However, ibn Ishāq numbers them at twenty-seven, and ibn an-Nuhās records twenty-eight battles in the ten years the Prophet ﷺ was in Madinah, in addition to dispatching his companions on fifty-five military expeditions and detachments during the same period. Refer to *Mashāri' al-Ashwāq*, pp.255-281, and pp.355-367 in the English translation

وَالَّذِي نَفْسُ مُحَمَّدٍ بِيَدِهِ لَوَدِدْتُ أَنْ أَغْزُوا فِي سَبِيلِ اللَّهِ فَأُقْتَلَ، ثُمَّ أَغْزُوا فَأُقْتَلَ، ثُمَّ
أَغْزُوا فَأُقْتَلَ

“In the name of whom Muhammad’s soul is in His Hand, I wish I could fight in the cause of Allāh and then be killed, and then fight and then be killed, and then fight and then be killed.”⁸

However, with the deepest regret we find that many of the Muslims today wishes and aspirations could not be further from those of the Prophet ﷺ and his trustworthy companions.

Therefore, it was decided to translate, and make accessible for the English reading audience, this extremely beneficial work by Shaykh Hārith an-Nadhārī.

The text of this treatise follows the Shaykh’s speech as much as is possible. However at times, some of the sentences have been re-arranged to facilitate readability in the English language. Additional comments and footnotes have been added where appropriate. In addition, references for some of the evidences the Shaykh cites, or alludes to, were also added to the text.

May Allāh reward the Shaykh for his *Jihād* and *Da’wah*, and bring about benefit to the Muslims through it. *Āmīn*.

Distance of a Month’s Journey Publications

8th Rabi’ al-Awwal, 1438 (8/12/2016)

⁸ *Sahīh al-Bukhārī, Sahīh Muslim, and Sunan an-Nasā’ī*

شيخ حارث ابن غازي النظاري

SHAYKH HĀRITH IBN GHĀZĪ AN-NADHĀRĪ

Shaykh Hārith ibn Ghāzī an-Nadhārī, real name Muhammad al-Murshidī. It has been reported that he studied at al-Imām University in Sana'a, Yemen.

He was a member of the *Sharī'ah* Committee in *al-Qā'idah in the Arabian Peninsula* (AQIP) and featured in numerous audio, written statements, books, and video releases by *al-Malāhim Media*, where he addresses many of the current issues and events facing Muslims today, and the *Mujāhidīn* in particular. Among some of his video releases were:

- *Tawhīd* and *Qitāl* (6 parts)
- Virtues of Martyrdom and Rewards of the Martyrs (5 parts)
- Rules of *Imārah* (13 parts)
- The Five Advices (3 parts)
- With the Qur'ān (8 parts)
- One *Ummah* (3 parts)
- The Good Reminders (21 parts)
- The Sanctity of Muslim Blood

Likewise, a number of his written works were translated into the English language, such as *Mujāhidīn in the Cities*, *America in Yemen*, and *In the Companionship of the Qur'ān*.

He was a key figure from among the scholars and *Mujāhidīn* that addressed and clarified many of the doubts and issues surrounding the disputes between some of the *Jihādī* groups. He sought to bring reconciliation between the disputing parties in a way that was pleasing to Allāh the Exalted. As He, the Glorified says,

﴿وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلَحُوا بَيْنَهُمَا ... إِنَّ اللَّهَ يُحِبُّ
الْمُقْسِطِينَ﴾ إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلَحُوا بَيْنَ أَخَوَيْكُمْ ۚ وَاتَّقُوا اللَّهَ
لَعَلَّكُمْ تُرْحَمُونَ ﴿٩﴾

*And if two factions among the believers should fight, then
make settlement between the two. [...] The believers are but
brothers, so make settlement between your brothers. And fear
Allāh that you may receive mercy.*⁹

He was killed by a US drone strike that targeted the vehicle, in which he and three other brothers were travelling, in the region of Sa'id, in Shabwah province, Sothern Yemen, on 11th Rabi' al-Ākhir, 1437 H (31/1/2015). We ask Allāh to accept him from amongst the martyrs.

Āmīn

⁹ Al-Hujurāt (49):9-10

توحيد ونواقضها

Tawhīd and its Nullifiers

The Messenger of Allāh ﷺ said,

أُمِرْتُ أَنْ أُقَاتِلَ النَّاسَ حَتَّى يَشْهَدُوا لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ وَيُتِمُّوا
الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ فَإِذَا فَعَلُوا ذَلِكَ عَصَمُوا مِنِّي دِمَائَهُمْ وَأَمْوَالَهُمْ إِلَّا بَحَقَّ الْإِسْلَامِ
وَحِسَابُهُمْ عَلَى اللَّهِ

“I have been ordered to fight against the people until they testify that there is none worthy of worship except Allāh and that Muhammad is the Messenger of Allāh, establish the prayer and give the zakāh. Then, if they do that, their blood and wealth will be protected from me – except in accordance with the right of Islām. And their reckoning will be with Allāh, the Exalted.”¹⁰

The above *Hadīth* can be divided into two parts, owing to the category of people dealt with:

1. **The Muslim.** Those that testify, “There is no deity worthy of worship except Allāh...¹¹” - their blood, wealth and honour are protected (*harām*) except for the rights of Allāh.¹²
2. **The Kāfir.** Those that do not testify “there is no deity worthy of worship except Allāh” - their blood, wealth and honour are not protected (*halāl*) except for those who are excluded (by the *Sharī’ah*).¹³

Therefore it is important to know how to distinguish between those whose lives, wealth, and honour have been protected by Islām, and those whose lives, wealth, and honour are permissible to be taken by the Muslim.

¹⁰ *Sahīh al-Bukhārī, Sahīh Muslim, Sunan at-Tirmidhī, Sunan an-Nasā’ī, Sunan Abū Dawūd, Ibn Mājah, Musnad Ahmad, al-Bayhaqī, Ibn Hibbān, al-Darqutnī, and Muwatta’ Imām Mālik.*

It was narrated by Ibn ‘Umar, Abū Hurayrah, Jabir Ibn ‘Abdullāh, Anas bin Mālik, Jarīr ibn ‘Abdullāh, ‘Aus ibn Abū ‘Aus, ibn ‘Abbās, Sahl ibn Sa’d, al-Nu’mān ibn Bashīr, Tāriq ibn Ashyam, Abū Bakrah, Mu’ādh bin Jabal and Samura bin Jundub - may Allāh be pleased with them all. Thus, the *hadīth* is *Mutawātir*, the absolute strongest form of *Hadīth*.

¹¹ لَا إِلَهَ إِلَّا اللَّهُ وَمُحَمَّدٌ رَسُولُ اللَّهِ “There is not deity worthy of worship except Allāh, and Muhammad is the Messenger of Allāh.”

¹² i.e. the *Hudūd* (legal limits set by Allāh)

¹³ This is known according to the principle of *Fiqh* - *al-Mafhūm al-Mukhālifah* (المفهوم المخالفة)

من المسلم؟

WHO IS THE MUSLIM?

1. The one who testifies '*there is no deity worthy of worship except Allāh (and Muhammad ﷺ is His Messenger)*' out of his or her own free will, and
2. Avoids the nullifiers of Islām

الشروط الشهادة

THE CONDITIONS OF THE SHAHĀDAH¹⁴

The declaration of '*there is no deity worthy of worship except Allāh*' must be accompanied with a number of conditions for it to take effect and validate the belief of the one uttering it. Once these conditions are present in an individual, he or she is considered as a Muslim, thus sanctifying their blood, wealth, and honour, for as long as they refrain from any act that invalidates their Islām.

Likewise, adhering to these conditions will save the believer from eternal punishment in the Fire. However, it does not guarantee that Allāh will not punish them, whether it be in this life or in the next, for any sins they may commit.

¹⁴ To testify that, '*There is no deity worthy of worship except Allāh, and Muhammad is the Messenger of Allāh.*'

These conditions are:

1. العلم (Knowledge)

The first condition is that the person has knowledge of what they are saying (and believing in) and its meaning that, ‘*there is no deity worthy of worship except Allāh.*’¹⁵ Therefore, the one who merely utters the testimony of faith without understanding what it means has not fulfilled this condition.

The evidence for this condition is found in the statement of Allāh the exalted,

﴿فَاعْلَمْ أَنَّهُ لَا إِلَهَ إِلَّا اللَّهُ﴾

﴿So know, [O Muhammad], that there is no deity except Allāh...﴾¹⁶

2. اليقين (Certainty)

This means that one who says, ‘*There is no deity worthy of worship except Allāh, and Muhammad is the Messenger of Allāh,*’ has complete certainty in the statement. As such, the one who harbours doubts regarding this cannot be considered as a Muslim.

The evidence for this condition is found in the noble verse,

﴿إِنَّمَا الْمُؤْمِنُونَ الَّذِينَ آمَنُوا بِاللَّهِ وَرَسُولِهِ ثُمَّ لَمْ يَرْتَابُوا وَجَاهَدُوا بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ فِي سَبِيلِ اللَّهِ أُولَٰئِكَ هُمُ الصَّادِقُونَ﴾

¹⁵ Shaykh Muhammad ibn ‘Abd al-Wahhāb says in his book ‘*The Three Fundamental Principles*’, that the meaning of the (first part of the) testimony of faith is,

لا معبود بحق إلا الله وحده

¹⁶ Muhammad (47):19

﴿The believers are only the ones who have believed in Allāh and His Messenger and then doubt not but strive with their properties and their lives in the cause of Allāh. It is those who are the truthful.﴾¹⁷

3. القبول (Acceptance)

This means to accept everything that the religion of Islām in its entirety entails. Evidence for this condition is derived from the noble verse,

﴿إِنَّهُمْ كَانُوا إِذَا قِيلَ لَهُمْ لَا إِلَهَ إِلَّا اللَّهُ يَسْتَكْبِرُونَ وَيَقُولُونَ إِنَّا لَتَارِكُوا آلِهَتِنَا لِشَاعِرٍ مَّجْنُونٍ﴾

﴿Indeed they, when it was said to them, “There is no deity but Allāh,” were arrogant. And were saying, “Are we to leave our Allāh’s for a mad poet?”﴾¹⁸

4. الإنقياد (Compliance)

Where the condition of ‘acceptance’ is strictly an action of the heart, ‘compliance’ however manifests itself on the limbs of the believer. As such, he or she willingly obeys Allāh and His messenger ﷺ in whatever they command or prohibit.

As Allāh, the Most High says,

﴿فَلَا وَرَبِّكَ لَا يُؤْمِنُونَ حَتَّىٰ يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لَا يَجِدُوا فِي أَنْفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا﴾

¹⁷ Al-Hujūrāt (49):15

¹⁸ As-Saffāt (37):35-36

But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission.¹⁹

5. الصدق (Truthfulness)

This condition necessitates that the one who bears witness that, ‘*there is no diety of worship except Allāh, and Muhammad is the Messenger of Allāh,*’ does so truthfully, and does not falsely bear witness to their belief in Allāh and His messenger ﷺ as the *Munāfiqīn* (hypocrites) do.

In this light, the Prophet ﷺ said,

مَا مِنْ أَحَدٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ صِدْقًا مِنْ قَلْبِهِ إِلَّا حَرَّمَ اللَّهُ عَلَى النَّارِ

“*Allāh shall forbid the fire from anyone that bears witness truthfully from his heart that there is nothing worthy of worship except for Allāh and that Muhammad is His slave and messenger.*”²⁰

6. الإخلاص (Sincerity)

This means that the one bearing witness to their faith does so sincerely, and not doing so to show off in front of people, nor out a fear of being killed. While an insincere declaration of faith may well benefit one in this life by protecting the claimant’s life and wealth from the Muslims, it will be of no benefit in the hereafter wherein Allāh, the all-Seer the all-Knower ,will expose this great lie.

¹⁹ *An-Nisā’* (4):65

²⁰ *Sahīh al-Bukhārī* and *Sahīh Muslim*

The evidence for this condition is evident in the noble verse,

﴿وَمَا أُمِرُوا إِلَّا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ حُنَفَاءَ وَيُقِيمُوا الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ ۚ وَذَلِكَ دِينُ الْقَيِّمَةِ﴾

*﴿And they were not commanded except to worship Allāh, [being] sincere to Him in religion, inclining to truth, and to establish prayer and to give zakāh. And that is the correct religion.﴾*²¹

7. المحبة (Love)

The believer is required to love Allāh and His messenger ﷺ, not harbouring any hatred or dislike for Allāh or His messenger ﷺ.²²

²¹ Al-Bayyinah (98):5

²² Allāh the Exalter further expounds on this concept in Sūrah at-Tawbah (9:24) saying,

﴿قُلْ إِنْ كَانَ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ وَإِخْوَانُكُمْ وَأَزْوَاجُكُمْ وَعَشِيرَتُكُمْ وَأَمْوَالٌ
اقتَرَفْتُمُوهَا وَتِجَارَةٌ تَخْشَوْنَ كَسَادَهَا وَمَسَاكِينُ تَرْضَوْنَهَا أَحَبَّ إِلَيْكُمْ مِنَ اللَّهِ
وَرَسُولِهِ وَجِهَادٍ فِي سَبِيلِهِ فَتَرَبَّصُوا حَتَّى يَأْتِيَ اللَّهُ بِأَمْرِهِ ۗ وَاللَّهُ لَا يَهْدِي الْقَوْمَ
الْفَاسِقِينَ﴾

﴿Say, [O Muhammad], "If your fathers, your sons, your brothers, your wives, your relatives, wealth which you have obtained, commerce wherein you fear decline, and dwellings with which you are pleased are more beloved to you than Allāh and His Messenger and Jihād in His cause, then wait until Allāh executes His command. And Allāh does not guide the defiantly disobedient people.﴾

Allāh says,

﴿وَمِنَ النَّاسِ مَن يَتَّخِذُ مِن دُونِ اللَّهِ أَندَادًا يُحِبُّونَهُمْ كَحُبِّ اللَّهِ^ط وَالَّذِينَ آمَنُوا أَشَدُّ حُبًّا لِلَّهِ^ط وَلَوْ يَرَى الَّذِينَ ظَلَمُوا إِذْ يَرَوْنَ الْعَذَابَ أَنَّ الْقُوَّةَ لِلَّهِ جَمِيعًا وَأَنَّ اللَّهَ شَدِيدُ الْعَذَابِ﴾

*And [yet], among the people are those who take other than Allāh as equals [to Him]. They love them as they [should] love Allāh. But those who believe are stronger in love for Allāh. And if only they who have wronged would consider [that] when they see the punishment, [they will be certain] that all power belongs to Allāh and that Allāh is severe in punishment.*²³

Therefore, the one who testifies that ‘there is no deity worthy of worship except Allāh, and Muhammad is His Messenger,’ adheres to the aforementioned conditions and avoids the nullifiers of Islām is a Muslim. In addition, he or she has protected their lives and wealth from the believers, “except in accordance with the right of Islām. And their reckoning will be with Allāh, the Exalted.”

²³ Al-Baqarah (2):165

الأركان لا إله إلا الله

THE PILLARS OF 'THERE IS NO DEITY WORTHY OF WORSHIP EXCEPT ALLĀH'

The statement '*there is no deity worthy of worship except Allāh*' has only two pillars that the believer must adhere to in order to remain within the folds of Islam. They consist of (1) negation and (2) affirmation.²⁴

They are:

1. Disbelief in *Tāghūt*, which corresponds to the first part of the testimony of faith, '*there is no deity worthy of worship...*' while
2. Belief in Allāh, corresponds to the second part, '*... except Allāh.*'

The evidence for this is apparent in the statement of Allāh the Exalted:

﴿لَا إِكْرَاهَ فِي الدِّينِ ۚ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ ۚ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنْ بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا انْفِصَامَ لَهَا ۗ وَاللَّهُ سَمِيعٌ عَلِيمٌ﴾

*There shall be no compulsion in [acceptance of] the religion. The right course has become clear from the wrong. So whoever disbelieves in tāghūt and believes in Allāh has grasped the most trustworthy handhold with no break in it. And Allāh is Hearing and Knowing.*²⁵

²⁴ In Arabic, the terms نفى وإثبات are used

²⁵ Al-Baqarah (2):256

Belief in Allāh comprises of what has preceded, in addition to believing in His angles, books, messengers, the Day of Reckoning, and Allāh's divine decree (*Qadr*).²⁶

ما معنى طاغوت؟

WHAT IS A TĀGHŪT?

In its linguistic definition, the term *Tughyān*²⁷ refers to 'exceeding the boundary' (the one that does this would then be referred to as a *Tāghūt*).²⁸ However, in its *Shar'ī* (Islamic) definition it refers to, as defined by ibn Qayyim,

الطاغوت: كل ما تجاوز به العبد حده من معبود أو متبوع أو مطاع

“Everything that the slave exceeds the boundaries (of the *Sharī'ah*) in; with (regards to) being worshiped, or followed, or obeyed.”

According to the above definition, it becomes apparent that there are many different types of *Tawāghūt*.²⁹ Amongst them, there are those that are worshiped besides Allāh, or followed in contradiction to the dictates of *Tawhīd*, or obeyed in contradiction to the command of Allāh and His messenger ﷺ.

The different types of *Tāghūt* can be summarised into four groups,

1) The first of which is the *Shaytān*.

²⁶ These articles of faith are found in the *Hadīth of Jibrīl*, recorded in *Sahīh Muslim*, in which, when questioned about belief, the Messenger of Allāh responded,

أَنْ تُؤْمِنَ بِاللَّهِ وَمَلَائِكَتِهِ وَكُتُبِهِ وَرُسُلِهِ وَيَوْمَ الْآخِرِ وَتُؤْمِنَ بِقَدَرِ خَيْرِهِ وَشَرِّهِ

“It is to believe in Allah, His angels, His books, His messengers, the Last Day and to believe in the divine decree, [both] the good and the evil thereof.”

²⁷ طغيان

²⁸ طاغوت

²⁹ طواغيت pl. of *Tāghūt*.

Allāh the Exalted says about him,

﴿أَلَمْ أَعْهَدْ إِلَيْكُمْ يَا بَنِي آدَمَ أَنْ لَا تَعْبُدُوا الشَّيْطَانَ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ
وَإِنْ اعْبُدُونِي هَذَا صِرَاطٌ مُسْتَقِيمٌ﴾

﴿Did I not enjoin upon you, O children of Adam, that you not worship Satan - [for] indeed, he is to you a clear enemy - And that you worship [only] Me? This is a straight path.﴾³⁰

- 2) The second is the ruler, or judge, who replaces the *Sharī'ah* (laws) of Allāh. He, the Most High, says about them,

﴿وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ﴾

﴿... And whoever does not judge by what Allāh has revealed - then it is those who are the disbelievers.﴾³¹

- 3) In this era, the parliamentary assemblies fall within the realms of the *Tawāghīt* worshiped besides Allāh. This is because they are legislative assemblies who create and implement laws contrary to the *Sharī'ah* of Allāh.

Allāh says about such assemblies,

﴿أَمْ لَهُمْ شُرَكَاءُ شَرَعُوا لَهُمْ مِنَ الدِّينِ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ وَلَوْلَا كَلِمَةُ
الْفَصْلِ لَفُضِّي بَيْنَهُمْ وَإِنَّ الظَّالِمِينَ لَهُمْ عَذَابٌ أَلِيمٌ﴾

﴿Or have they partners [i.e., other deities] who have ordained for them a religion to which Allāh has not consented? But if not for the decisive word, it would have been concluded

³⁰ *Yā-Sīn* (36):60, 61

³¹ *Al-Mā'idah* (5):44

between them. And indeed, the wrongdoers will have a painful punishment.³²

- 4) While the forth is the United Nations (UN), who order mankind to submit to the legislation of *Kufr*, in the shape of their constitution which requires submission to their international laws and resolutions.

However, Allāh says about those who recognise such entities,

﴿أَلَمْ تَرَ إِلَى الَّذِينَ يَزْعُمُونَ أَنَّهُمْ آمَنُوا بِمَا أُنْزِلَ إِلَيْكَ وَمَا أُنْزِلَ مِنْ قَبْلِكَ يُرِيدُونَ أَنْ يَتَحَاكَمُوا إِلَى الطَّاغُوتِ وَقَدْ أُمِرُوا أَنْ يَكْفُرُوا بِهِ وَيُرِيدُ الشَّيْطَانُ أَنْ يُضِلَّهُمْ ضَلَالًا بَعِيدًا﴾

Have you not seen those who claim to have believed in what was revealed to you, [O Muhammad], and what was revealed before you? They wish to refer legislation to tāghūt, while they were commanded to reject it; and Satan wishes to lead them far astray.³³

Disbelief in *Tāghūt*, comprises of disbelieving in every deity worshiped besides Allāh, and is manifested through the actions of the heart, tongue and the limbs, in much the same way as belief (*Īmān*) in Allāh also comprises of actions of the heart, tongue, and the limbs.

With regards to the disbelief of the *Tāghūt* with the heart; it is to reject, and believe that all of the deities worshiped besides Allāh are false, and to harbour an animosity and hatred for all of them (and those who worship them).

While the disbelief in the *Tāghūt* with the tongue is to declare their falseness and *Kufr*, clearly disavowal oneself from them, their religions, and their

³² *Ash-Shūrā* (42):21

³³ *An-Nisā* (4):60

followers, and to clarify (to the people) the *Kufr* and falseness of those worshiped besides Allāh.

As Allāh the Exalted says,

﴿قَدْ كَانَتْ لَكُمْ أُسْوَةٌ حَسَنَةٌ فِي إِبْرَاهِيمَ وَالَّذِينَ مَعَهُ إِذْ قَالُوا لِقَوْمِهِمْ إِنَّا بُرَاءُ مِنْكُمْ وَمِمَّا تَعْبُدُونَ مِنْ دُونِ اللَّهِ كَفَرْنَا بِكُمْ وَبَدَا بَيْنَنَا وَبَيْنَكُمْ الْعَدَاوَةُ وَالْبَغْضَاءُ أَبَدًا حَتَّى تُؤْمِنُوا بِاللَّهِ وَحْدَهُ﴾

*“There has already been for you an excellent pattern in Abraham and those with him, when they said to their people, “Indeed, we are disassociated from you and from whatever you worship other than Allāh. We have denied you, and there has appeared between us and you animosity and hatred forever until you believe in Allāh alone,”*³⁴

As for disbelief in the *Tāghūt* with the limbs, it is to separate and distance oneself from them, in addition to waging *Jihād* against the *Tawāghūt*, their followers, and their armies. All the above is from both, the foundations of belief (in Allāh), and from its obligations (*wājibāt*).

Allāh says,

﴿وَالَّذِينَ اجْتَنَبُوا الطَّاغُوتَ أَنْ يَعْبُدُوهَا وَأَنَابُوا إِلَى اللَّهِ لَهُمُ الْبُشْرَىٰ فَبَشِّرْ عِبَادِ﴾

*“But those who have avoided tāghūt, lest they worship it, and turned back to Allāh - for them are good tidings. So give good tidings to My servants...”*³⁵

And,

﴿فَقَاتِلُوا أَئِمَّةَ الْكُفْرِ إِنَّهُمْ لَا أَيْمَانَ لَهُمْ لَعَلَّهُمْ يَنْتَهُونَ﴾

³⁴ Al-Mumtahinah (60):4

³⁵ Az-Zumar (39):17

﴿... then fight the leaders of disbelief, for indeed, there are no oaths [sacred] to them; [fight them that] they might cease.﴾³⁶

As for the second pillar, belief in Allāh, it comprises of a number of matters. However, the scholars have differed as to their exact number, but in reality this difference is due to differences in their terminology and not in the actual articles of faith themselves. They are also referred to as the ‘categories of *Tawhīd*.’

الأقسام التوحيد

THE CATEGORIES OF TAWHĪD

According to most of the scholars today, the categories of *Tawhīd* are three; *Tawhīd ar-Rubbūbiyah*,³⁷ *Tawhīd al-‘Ibādah*,³⁸ and *Tawhīd al-Asmā’ wa-Sifāt*.³⁹ Whilst there are some that consider them to be four, adding *Tawhīd al-Hākimiyyah*⁴⁰ to the three previously mentioned categories. However, from the earlier scholars of Islām, there are those who considered them to be

³⁶ *At-Tawbah* (9):12

³⁷ التوحيد الربوبية The oneness of Allāh’s divine Lordship in relation to the actions only He is capable of doing, such as creating, sustaining, giving life and causing death, and others. It has been defined as, إفراد الله بأفعاله

³⁸ التوحيد الألوهية The oneness of Allāh’s worship. Also referred to as *Tawhīd al-Ulūhiyyah*. This category is related to the actions of the slave, and in particular, those actions (of worship) which can only be directed to Allāh the Most High.

It has been defined as, إفراد الله بالعبادة

³⁹ التوحيد الأسماء والصفات The oneness of Allāh’s divine names and attributes

⁴⁰ التوحيد الحاكمية The oneness of judging by Allāh’s Laws alone

only two, *Tawhīd al-Ma'rifah wa'l-Ithbāt*⁴¹ and *Tawhīd al-Qasd wa'l-Talab*.⁴²

Once a person has combined between the above two pillars, he or she is a Muslim and is protected from eternal punishment in the Fire, as long as they stay away from the following deeds that nullify belief.

الأقسام النواقض للإيمان

THE NULLIFIERS OF TAWHĪD (ĪMĀN)

The Nullifiers of *Tawhīd* are the actions or beliefs that if done, cause the Islām of the one who does them (or believes them) to become null and void. Therefore, the one that does such would become an apostate from the religion of Islām. These nullifiers can be divided into three broad categories:

1. Nullifiers of the heart
2. Nullifiers of the tongue (speech)
3. Nullifiers of the limbs (actions)

⁴¹ التوحيد المعرفة والإثبات The oneness of knowledge and affirmation

⁴² التوحيد القصد والطلب The oneness of object and aim

There has unfortunately been much dispute over the exact number of the categories of *Tawhīd*, however it must be remembered that these categories were labelled and separated by scholars to facilitate teaching and learning, and according to the prevalent needs of the day. As such, the earlier scholars did not feel the need to designate a separate category for Allāh's *Hākimiyyah*, or sole right to legislate and govern the affairs of His creation, even though they fully accepted the concept. This was because until relatively recently, there was never any serious question as to the *Sharī'ah* being the sole source of law for the Muslim *Ummah*. However, since today the question has become somewhat confusing in the minds of many Muslims, a number of scholars have found the need to treat this concept as its own category to emphasise its importance and facilitate its teaching and learning. Nevertheless, ultimately *Tawhīd* in its essence is one and cannot be divided, thus there is much overlap between the various categories.

Note on *Nifāq*:⁴³

When someone's Islām is nullified due to a belief (or disbelief) they hold in their heart, but is not manifested in their speech or actions – we are not able to look into their hearts and determine that they have apostatized from Islām, and therefore label them as an apostate. So they are dealt with according to their apparent outward condition which is that of Islām. However Allāh knows well their true state of disbelief, thus they are legally termed '*Munāfiqīn*', although their reality is known only to Allāh. As the Messenger of Allāh ﷺ said,

إِنِّي لَمْ أُمِرْ أَنْ أَنْقَبَ عَنْ قُلُوبِ النَّاسِ وَلَا أَشُقَّ بُطُونَهُمْ

"I have not been ordered to investigate the hearts of the people, or to rip open their bellies."⁴⁴

However, Allāh knows what the *Munāfiqīn* conceal and thus exposes them:

﴿وَمِنَ النَّاسِ مَنْ يَقُولُ آمَنَّا بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَمَا هُمْ بِمُؤْمِنِينَ﴾

﴿And of the people are some who say, "We believe in Allāh and the Last Day," but they are not believers﴾⁴⁵

Some examples of the Nullifiers of Islām are:⁴⁶

⁴³ *Nifāq* (نفاق): Hypocrisy. This refers to those who display Islām outwardly while concealing *Kufr* in their hearts. The people that do this are called the *Munāfiqīn*, and will reside in the lowest depths of Hell for all eternity. Allāh says about them in *Sūrah al-Baqarah* (2:8-10),

﴿وَمِنَ النَّاسِ مَنْ يَقُولُ آمَنَّا بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَمَا هُمْ بِمُؤْمِنِينَ ۖ يُخَادِعُونَ اللَّهَ وَالَّذِينَ آمَنُوا وَمَا يَخْدَعُونَ إِلَّا أَنْفُسَهُمْ وَمَا يَشْعُرُونَ ۖ فِي قُلُوبِهِمْ مَرَضٌ فَزَادَهُمُ اللَّهُ مَرَضًا ۖ وَلَهُمْ عَذَابٌ أَلِيمٌ بِمَا كَانُوا يَكْذِبُونَ﴾

﴿And of the people are some who say, "We believe in Allāh and the Last Day," but they are not believers. They [think to] deceive Allāh and those who believe, but they deceive not except themselves and perceive [it] not. In their hearts is disease, so Allāh has increased their disease; and for them is a painful punishment because they [habitually] used to lie.﴾

⁴⁴ *Sahīh al-Bukhārī* and *Sahīh Muslim*

⁴⁵ *Al-Baqarah* (2):8

النواقض الإيمان بالقلب

NULLIFIERS OF THE HEART

Believing something to be *halāl* (permissible) which is known by necessity from the religion is *harām* (prohibited), for example drinking alcohol, committing fornication, worshipping idols, etc. Also, associating partners with Allāh in His Lordship,⁴⁶ having no desire to learn or act upon the teachings of Islām,⁴⁸ and hating the Qur'ān and/or *Sunnah*.⁴⁹

⁴⁶ Shaykh ibn Taymiyyah said in *The Book of Eeman* (p.192), "Anyone who says anything or does something which contradicts with his testimony of faith will be nullifying his declaration and be treated as having abandoned the religion of Allāh."

Also, refer to *The Nullifiers of Islam*, and *The Book of Eeman* (pp.191-236)

⁴⁷ Allāh says in *Sūrah An-Nisā'* (4:48),

﴿إِنَّ اللَّهَ لَا يَغْفِرُ أَنْ يُشْرَكَ بِهِ وَيَغْفِرُ مَا دُونَ ذَلِكَ لِمَنْ يَشَاءُ﴾

﴿Indeed, Allāh does not forgive associating partners with Him, but He forgives what is less than that for whom He wills.﴾

⁴⁸ Allāh says in *Sūrah As-Sajdah* (32:22),

﴿وَمَنْ أَظْلَمُ مِمَّنْ ذُكِّرَ بِآيَاتِ رَبِّهِ ثُمَّ أَعْرَضَ عَنْهَا إِنَّا مِنَ الْمُجْرِمِينَ مُنتَقِمُونَ﴾

﴿And who is more unjust than one who is reminded of the verses of his Lord; then he turns away from them? Indeed We, from the criminals, will take retribution.﴾

⁴⁹ Allāh says in *Sūrah Muhammad* (47:8-9),

﴿وَالَّذِينَ كَفَرُوا فَتَعَسَا لَهُمْ وَأَضَلَّ أَعْمَالُهُمْ ﴿٨﴾ ذَلِكَ بِأَنَّهُمْ كَرِهُوا مَا أَنْزَلَ اللَّهُ فَأَخْبَطَ أَعْمَالَهُمْ﴾

﴿But those who disbelieve - for them is misery, and He will waste their deeds. That is because they disliked what Allāh revealed, so He rendered worthless their deeds.﴾

النواقض الإيمان باللسان

NULLIFIERS OF THE TONGUE

Deeds that fall within this category are; cursing Allāh, His Messenger ﷺ, or Islām, without being compelled (forced) to do so, mocking the religion, or aspects from it, and supplicating to other than Allāh.⁵⁰

النواقض الإيمان بالجوارح

NULLIFIERS OF THE LIMBS (ACTIONS)

Ruling by other than Allāh's laws,⁵¹ taking the *Kuffār* as intimate friends and supporters,⁵² or prostrating to other than Allāh,⁵³ are all actions that cause the doer to leave the fold of Islām.

⁵⁰ Allāh says in *Sūrah al-Jinn* (72:18),

﴿وَأَنَّ الْمَسَاجِدَ لِلَّهِ فَلَا تَدْعُوا مَعَ اللَّهِ أَحَدًا﴾

﴿And [He revealed] that the masjids are for Allāh, so do not invoke with Allāh anyone.﴾

⁵¹ Allāh says in *Sūrah al-Mā'idah* (5:44),

﴿وَمَنْ لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ﴾

﴿And whoever does not judge by what Allāh has revealed - then it is those who are the disbelievers.﴾

⁵² Allāh says in *Sūrah al-Mā'idah* (5:51),

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا الْيَهُودَ وَالنَّصَارَىٰ أَوْلِيَاءَ ۚ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ ۚ وَمَنْ يَتَوَلَّهُمْ مِنكُمْ فَإِنَّهُ مِنْهُمْ﴾

﴿O you who have believed, do not take the Jews and the Christians as allies. They are [in fact] allies of one another. And whoever is an ally to them among you - then indeed, he is [one] of them.﴾

⁵³ Allāh says in *Sūrah al-Mā'idah* (5:72),

﴿إِنَّهُ مَنْ يُشْرِكْ بِاللَّهِ فَقَدْ حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ وَمَأْوَاهُ النَّارُ﴾

﴿Indeed, he who associates others with Allāh (in worship) – Allāh has forbidden him Paradise, and his refuge is the Fire.﴾

Performing any act from within the above categories is enough in-and-of itself for someone to fall into apostasy. However, they do not necessarily need to be combined with other categories to take effect. For example, it is not needed for someone who commits an action of Major *Kufr* (apostasy) by his/her actions, to accompany it with a statement clarifying that it is indeed Major *Kufr* that they intended by their actions, as can be seen in the Battle of Tabūk, where an example of this occurred.⁵⁴

‘Abdullāh ibn ‘Umar narrated: A man during the battle of Tabūk said, “We have seen no people with greater appetite (bigger stomachs), more lying and more cowardly in battle than those people” [He was referring to the Qur’ān reciters with the Prophet ﷺ]. Awf bin Mālik rose and said, “In fact, you are a liar and a hypocrite and I will inform Allāh’s Messenger about your words”. So he went to Allāh’s Messenger, but he was already informed by the above revelation.⁵⁵ At the same time, the hypocrite approached Allāh’s Messenger while he was starting his journey already on his camel. He pleaded, “O Messenger of Allāh! We were only joking and trying to pass the time while travelling”. Ibn ‘Umar said, “It’s as if I see him now that he

⁵⁴ This battle took place in the 9th year *Hijrī*

⁵⁵ Referring to the verses from *Sūrah at-Tawbah* (9:64-67):

﴿يَحْذَرُ الْمُنَافِقُونَ أَنْ تُنَزَّلَ عَلَيْهِمْ سُورَةٌ تُنَبِّئُهُمْ بِمَا فِي قُلُوبِهِمْ ۚ قُلِ اسْتَهْزِئُوا إِنَّ اللَّهَ مُخْرِجٌ مَّا تَحْذَرُونَ ۝ وَلَئِنْ سَأَلْتَهُمْ لَيَقُولُنَّ إِنَّمَا كُنَّا نَخُوضُ وَنَلْعَبُ ۚ قُلْ أِبَالَهُ وَآيَاتِهِ وَرَسُولِهِ كُنْتُمْ تَسْتَهْزِئُونَ ۝ لَا تَعْتَذِرُوا قَدْ كَفَرْتُمْ بَعْدَ إِيمَانِكُمْ ۚ إِنَّ نَعْفَ عَنْ طَائِفَةٍ مِّنْكُمْ يُعَذِّبُ طَائِفَةٌ ۚ إِنَّهُمْ كَانُوا مُجْرِمِينَ ۝ الْمُنَافِقُونَ وَالْمُنَافِقَاتُ بَعْضُهُمْ مِّنْ بَعْضٍ يَأْمُرُونَ بِالْمُنْكَرِ وَيَنْهَوْنَ عَنِ الْمَعْرُوفِ وَيَقْبِضُونَ أَيْدِيَهُمْ ۚ نَسُوا اللَّهَ فَنَسِيَهُمْ ۚ إِنَّ الْمُنَافِقِينَ هُمُ الْفَاسِقُونَ ۝﴾

﴿The hypocrites are apprehensive lest a sūrah be revealed about them, informing them of what is in their hearts. Say, “Mock [as you wish]; indeed, Allāh will expose that which you fear.” And if you ask them, they will surely say, “We were only conversing and playing.” Say, “Is it Allāh and His verses and His Messenger that you were mocking?” Make no excuse; you have disbelieved [i.e., rejected faith] after your belief. If We pardon one faction of you - We will punish another faction because they were criminals. The hypocrite men and hypocrite women are of one another. They enjoin what is wrong and forbid what is right and close their hands. They have forgotten Allāh, so He has forgotten them [accordingly]. Indeed, the hypocrites - it is they who are the defiantly disobedient.﴾

was clinging to the saddle belt of the Messenger of Allāh's camel as it ran while his legs were being battered by the rough ground, and even then he continued pleading". Allāh's Messenger said, **﴿Was it at Allāh and His ayāt (proofs, evidences, verses, lessons, signs, revelations, etc.) and His Messenger that you were mocking? Make no excuse. You have disbelieved after you have believed.﴾**⁵⁶ He ﷺ did not look towards them nor spoke anything further.⁵⁷

...

After clarifying who the Muslim is, the one who testifies 'that there is no deity worthy of worship except Allāh', the one whose blood and wealth are protected according to the *Sharī'ah*. The second type of person mentioned in the *hadīth*, although implicitly,⁵⁸ the *Kāfir*, will now be mentioned.

⁵⁶ *At-Tawbah* (9):65-66

⁵⁷ *Ibn Jarīr (at-Tabarī), Ibn Abī Hātim* and others

⁵⁸ According to the wording of the *hadīth*, the one who testifies 'that there is no deity worthy of worship except Allāh ...' will be protected because of his or her Islām. In addition, it is also possible to understand, as it was by the Companions, that those who do not testify, 'that there is no deity worthy of worship except Allāh ...' do not have their blood and wealth protected by the *Sharī'ah*. Regarding this, Shaykh al-Islām ibn Taymiyyah said in his book, *as-Siyāsah ash-Sharī'ah* (p.55), "... Indeed Allāh only created the creation for the purpose of His worship. Therefore, the blood and the wealth of the disbelievers is permitted (for the Muslims), as they (the disbelievers) do not worship Him, neither do they use their wealth to assist them in His worship..."

الأصناف الكفار

Classifications of the *Kuffār*

The *Kāfir* is the one who refuses to testify ‘*that there is no deity worthy of worship except Allāh,*’ and thus permits his own blood and wealth because of his disbelief.

The *Kuffār* can be categorised into one of two categories:

1. أهل الحرب (*Ahl al-Harb*)⁵⁹

This is the original state (default ruling) of the *Kāfir* - there is no valid treaty or covenant between these *Kuffār* and the Muslims.

Evidence for this ruling can be found in the *Hadīth*: The Messenger of Allāh ﷺ said,

أُمِرْتُ أَنْ أُقَاتِلُ النَّاسَ حَتَّى يَشْهَدُوا لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ وَيُقِيمُوا
الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ فَإِذَا فَعَلُوا ذَلِكَ عَصَمُوا مِنِّي دِمَائِهِمْ وَأَمْوَالَهُمْ إِلَّا بِحَقِّ الْإِسْلَامِ
وَحِسَابُهُمْ عَلَى اللَّهِ

“I have been ordered to fight against the people **until** they testify that there is none worthy of worship except Allāh and that Muhammad is the Messenger of Allāh, establish the prayer and give the zakāh. Then, if they do that, their blood and wealth will be protected from me – except in accordance with the right of Islām. And their reckoning will be with Allāh, the Exalted.”

The sentence; *Then, if they do that, their blood and wealth will be protected from me*, implicates that before the *Kāfir* embraces Islām, prays and pays the *Zakāh*, his blood and wealth are not protected from the Muslims.⁶⁰

⁵⁹ *Ahl al-Harb* (أهل الحرب), lit. The people of war

⁶⁰ There does not have to be on-going war or hostilities for them to take this ruling, merely the absence of a legitimate treaty or covenant with the Muslims is sufficient for the *Kāfir* to

2. أهل العهد (Ahl al- 'Ahd)⁶¹

The *Kuffār* that fall under this category have their blood and wealth protected by the *Sharī'ah* of Islām by virtue of the covenant that they have with the Muslims.

There are three types of *ahl al- 'Ahd*:

- i. أهل الذمة (Ahl adh-Dhimmah)
- ii. أهل المعاهدة (Ahl al-Mu'āhadah)
- iii. المستأمنون (Al-Musta'manūn)

An explanation of these groups will now follow:

أهل الذمة

AHL ADH-DHIMMAH

The evidence for the validity of the concept of *Dhimmah* can be found in Allāh's the Majestic's statement,

﴿قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ﴾

fall within this category. The blood, wealth and honour of these *Kuffār* is permissible for the Muslims, whether the *Kuffār* be in their own lands, or in the lands of the Muslims. For further details refer to *Essay Regarding the Basic Rule of the Blood, Wealth, and Honour of the Disbelievers* (pp.29-44)

⁶¹ *Ahl al- 'Ahd* (أهل العهد): lit. People of the covenant. They are *Kuffār* who have been given a safety or peace covenant from the Muslims, or are non-Muslim subjects of the Islamic State, who pay the Jizyah in return for them being permitted to remain upon their disbelief.

Fight those who do not believe in Allāh or in the Last Day and who do not consider unlawful what Allāh and His Messenger have made unlawful and who do not adopt the religion of truth [i.e., Islām] from those who were given the Scripture - [fight] until they give the jizyah willingly while they are humiliated.⁶²

We also witness from the guidance of the Prophet ﷺ the following:

It was narrated from Sulaymān bin Buraydah that his father said, “When the Messenger of Allāh dispatched a commander for an expedition or an army, he would advise them personally to fear Allāh, and to be good to those of the Muslims who were under their command. In addition, he ﷺ said,

إذا لقيت عدوك من المشركين فادعهم إلى إحدى ثلاث خصال، -أو خلال- فأيّتها أجابوك إليها، فاقبل منهم وكف عنهم: ادعهم إلى الإسلام، فإن أجابوك فاقبل منهم وكف عنهم، ثم ادعهم إلى التحول من دارهم إلى دار المهاجرين، وأعلمهم أنهم إن فعلوا ذلك أن لهم ما للمهاجرين وأن عليهم ما على المهاجرين، فإن أبوا واختاروا دارهم فأعلمهم أنهم يكونون كأعراب المسلمين: يجري عليهم حكم الله الذي يجري على المؤمنين، ولا يكون لهم في الفبيء والغنيمه نصيب، إلا أن يُجاهدوا مع المسلمين، فإن هم أبوا فادعهم إلى إعطاء الجزية، فإن أجابوا فاقبل منهم وكف عنهم، فإن أبوا فاستعن بالله وقاتلهم...

‘When you meet your enemies among the idolaters, call them to one of three matters, and whichever one they respond to you, then accept it from them and refrain from (fighting) them. Invite them to Islām, and if they respond, then accept it from them and refrain from (fighting) them. Then invite them to emigrate from their land to the land of the Muhājirīn (al-Madinah), and tell them that if they do that, they will have the same rights and duties as the Muhājirīn have.

⁶² At-Tawbah (9):29

If they refuse, and choose their homes, then tell them that they are like the Muslim Bedouin and subject to the judgment of Allāh's, as the believers are subject to it, but they will have no share of the booty (Fay') and spoils (Ghanīmah), unless they perform Jihād alongside the Muslims. If they refuse, then call them to pay the Jizyah. If they respond, then accept it from them and refrain from (fighting) them. If they refuse that, then seek the help of Allāh and fight them [...]'”⁶³

الصفات الأهل الذمة

THE CHARACTERISTICS OF AHL ADH-DHIMMAH:

1. They are *ahl al-Kitāb*⁶⁴
2. They reside permanently in *Dār al-Islām*
3. They pay the *Jizyah*⁶⁵
4. They are subject to the laws of the *Sharī'ah*
5. Their blood, wealth and honour⁶⁶ are impermissible and protected (by the *Sharī'ah*) because of their covenant with the Muslims

من تقبل منه الجزية؟

WHO IS THE JIZYAH ACCEPTED FROM?

Having knowledge of who the *Jizyah* is accepted from, the Muslims therefore know who is entitled, should they choose, to be amongst the *ahl al-*

⁶³ *Sunan Abū Dawūd* (2612)

⁶⁴ *Ahl al-Kitāb* (أهل الكتاب): lit. people of the Book. They are the Jews the Christians

⁶⁵ *Al-Jizyah*: A tax required of disbelievers residing in *Dār al-Islām*, exempting them from military service and entitling them to the protection of the Islamic state. Concurrently, *Zakāh* is not taken from them, being an obligation only upon the Muslims.

⁶⁶ This refers to their women and children

Dhimma and pay the *Jizyah*, living under the protection of the Islāmic state. Following will be a summary of the various opinions from the four predominant Islāmic ‘schools of thought’ as recorded in *Tuhfah al-Fuqahā*,⁶⁷

- *Hanafī*: All *Kuffār* except the polytheist Arabs and the apostates
- *Mālikī*: All polytheists (Arab and non-Arab), except the apostates
- *Shāfi'ī*: *Ahl al-Kitāb* and Magians only
- *Hanbalī* (ibn Qayyim and others): *Ahl al-Kitāb* and Magians only

أهل المعاهدة

AHL AL-MU'ĀHADAH

This is when the Muslims make an agreement with the *Kuffār* (*ahl al-Harb*) to cease war or hostilities between them for an agreed period. The evidence for the validity of conducting peace treaties with the *Kuffār* (*ahl al-Harb*) is found in the following verses; Allāh says,

﴿بَرَاءَةٌ مِّنَ اللَّهِ وَرَسُولِهِ إِلَى الَّذِينَ عَاهَدْتُم مِّنَ الْمُشْرِكِينَ﴾

﴿[This is a declaration of] disassociation, from Allāh and His Messenger, to those with whom you had made a treaty among the polytheists.﴾⁶⁸

And,

﴿إِلَّا الَّذِينَ عَاهَدْتُم مِّنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْقُصُوكُمْ شَيْئًا وَلَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتِمُّوا إِلَيْهِمْ عَهْدَهُمْ إِلَىٰ مُدَّتِهِمْ ۚ إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ﴾

﴿Excepted are those with whom you made a treaty among the polytheists and then they have not been deficient toward you

⁶⁷ These opinions are also recorded by al-Qurtubī in *Jāmi' Ahkām al-Qur'ān* 4/453-454, and in an-Nawawī's *Sharh Sahīh Muslim*

⁶⁸ *At-Tawbah* (9):1

in anything or supported anyone against you; so complete for them their treaty until their term [has ended]. Indeed, Allāh loves the righteous [who fear Him]. ﴿٦٩﴾

Also,

﴿فَلَا تَهِنُوا وَتَدْعُوا إِلَى السَّلَامِ وَأَنْتُمْ الْأَعْلَوْنَ﴾

So do not weaken and call for peace while you are superior... ﴿٧٠﴾

The *Sunnah* of the Messenger of Allāh ﷺ, in his conducting the treaty of ‘*Hudaybiyah*’ with the Quraysh in the year 6 *Hijri*, also provides evidence for the validity of conducting peace treaties with the *Kuffār*:

As such, al-Miswar bin Makhramah and Marwan bin Al-Hakam said, “*They made a treaty to forsake war for ten years during which the people would have security, and that we should be sincere to the stipulations of the covenant and should not steal or commit treachery.*” ⁷¹

Their characteristics are:

1. They reside in their own lands, and ⁷²
2. They (or their leaders) have agreed upon a valid peace treaty with the leader (or his deputy) of the Muslims.

⁶⁹ *At-Tawbah* (9):4

⁷⁰ *Muhammad* (47):35

⁷¹ *Sunan Abū Dawūd* (2766). In addition, refer to the biographical accounts of the Prophet ﷺ, such as al-Mubarakpuri’s ‘*The Sealed Nectar*’ (pp.339-348.), and as-Sallabi’s ‘*The Noble Life of the Prophet ﷺ*’ (pp.1487-1576), for more details.

⁷² Which are originally *Dar al-Harb*, but after signing of a peace treaty becomes known as *Dar al-Mu’āhada* (دار المعاهدة)

الصلح

PEACE TREATIES

There are three types of peace treaties with regards to their specified time period. The first two being permissible, the third impermissible and invalid:

1. Specified time period ⁷³
2. Unspecified (open-ended) time period ⁷⁴
3. Permanent

The reason for the third type of peace treaty being deemed as impermissible (*harām*) by the scholars, is that this type of treaty affectively causes the permanent abandonment of *Jihād*, which is in direct opposition to the statement of Allāh the Most High,

﴿وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ فَإِنْ انْتَهَوْا فَلَا عُدْوَانَ إِلَّا عَلَى الظَّالِمِينَ﴾

*﴿And fight them until there is no more fitnah (disbelief and shirk) and (all and every kind of) worship is for Allāh (Alone). But if they cease, let there be no transgression except against Az-Zalimūn (the polytheists, and wrong-doers).﴾*⁷⁵

He, the Exalted, further clarifies this point,

﴿وَأَقْتُلُوهُمْ حَيْثُ ثَقِفْتُمُوهُمْ وَأَخْرِجُوهُمْ مِّنْ حَيْثُ أَخْرَجُوكُمْ ۚ وَالْفِتْنَةُ أَشَدُّ مِنَ الْقَتْلِ﴾

⁷³ E.g. 10 years, such as the treaty of Hudaibiyah

⁷⁴ E.g. an open-ended treaty, to be reviewed at an unspecified date in the future, or as the situation changes

⁷⁵ *Al-Baqarah* (2):193

And kill them wherever you find them, and turn them out from where they have turned you out. And fitnah is worse than killing.⁷⁶

The commentators on the Qur'ān say that the word **fitnah** in these verses refers to none other than *Shirk* (polytheism) and *Kufr*.⁷⁷

And also the narration of Abū Hurayrah: (He) relates that the Prophet ﷺ said,

الآن جاء القتال، ولا يزال طائفة من أمتي ظاهرين على الناس، يُزيغ الله تعالى قلوب أقوام، فيقاتلونهم ويرزقهم الله منهم حتى يأتي أمر الله وهم على ذلك، ألا إن عقر دار المؤمنين الشام، والخيول معقود في نواصيها الخير إلى يوم القيامة

*“Now the time of fighting has come. There will always be a group of my Ummah dominant over others. Allāh will turn the hearts of some people away (from the truth), so they (that group) will fight against them, and Allāh will bestow on them (war spoils) from them (the enemies) - until Allāh's command comes to pass while they are in that state. Verily, the centre of the believers' abode is Ash-Shām. And goodness is tied around the horses' foreheads till the Day of Resurrection.”*⁷⁸

⁷⁶ Al-Baqarah (2):191

⁷⁷ Refer to the works of *Tafsīr*, such as *ibn Kathīr* (1/531), *al-Qurtubī* (1/723), *al-Jalālayn* (p.38), *as-Sa'dī* (p.88), *ash-Shawkānī* (1/220), and others

⁷⁸ *Sunan an-Nasā'ī* and *Sunan Abū Dawūd*

المستأمنون

AL-MUSTA'MANŪN

The *Musta'manūn* are those *Kuffār* that have been granted a covenant of security from the Muslims. Covenants of security can be given to a number of people; such as messengers, traders, and those inclined towards Islām, who wish to hear about it. The evidence for the validity of granting covenants of security to the *Kuffār* (*ahl al-harb*) can be found in the following verse and *Hadīth*:

Allāh, the Majestic, says,

﴿وَإِنْ أَحَدٌ مِّنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّى يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ۚ ذَٰلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ﴾

And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allāh [i.e., the Qur'ān]. Then deliver him to his place of safety. That is because they are a people who do not know.⁷⁹

Additionally,

حدثنا محمد بن عمر والرازي، حدثنا سلمة -يعني ابن الفضل- عن محمد بن إسحاق، قال: كان مُسَيْلِمَةُ كتبَ إلى رسولِ الله ﷺ قال: وقد حدثني محمد بن إسحاق عن شيخٍ من أشجعٍ يقال له: سعد بن طارق، عن سلمة بن نعيم بن مسعود الأشجعي عن أبيه نعيم، قال: سمعتُ رسولَ الله -صلى الله عليه وسلم- يقول لهما حين قرأ كتابَ مُسَيْلِمَةَ: "ما تقولانِ أنثما؟" قالَا: نقولُ كما قال، قال: "أما والله لولا أنَّ الرُّسُلَ لا تُقتلُ لضربتُ أعناقكما"

⁷⁹ At-Tawbah (9):6

It was reported from Salamah, meaning Ibn al-Fadl, from Muhammad bin Ishāq, who said, “Musaylimah wrote to Allāh’s Messenger ﷺ.” He said, “And Muhammad bin Ishāq narrated to me, from a Shaykh, from Aja' named Sa'd bin Tāriq, from Salamah bin Nu'aym bin Mas'ūd al-Asjā'ī from his father, Nu'aym, who said, ‘I heard the Messenger of Allāh say to the two of them (the messengers) after he was read the letter from Musaylimah, “*What do you to believe (in)?*” They said, “We believe as he believes.” He said, “*By Allāh! If it wasn't that the messengers are not to be killed, I would have cut off their heads.*”⁸⁰

The characteristics of the *Musta'manūn* are:

1. The *Harbī*⁸¹ temporarily residing in *Dār al-Islām* for a specified time period, and
2. They have been given a (valid) covenant of security by a sane and adult Muslim

Ash-Shaybānī says that, “The security covenants that a free Muslim man, whether virtuous or immoral, gives are binding to all the other Muslims because of the *Hadīth*:

المُسْلِمُونَ تَتَكَافَأُ دِمَاؤُهُمْ وَيَسْعَى بِذِمَّتِهِمْ أَدْنَا هُمْ

“*Muslims are equal in respect of blood. They are like one hand over against all those who are outside the community. The lowest of them is entitled to give protection on their behalf.*”⁸²

Covenants of security are the same in respect to their periods, as those of the peace treaties previously mentioned.

⁸⁰ Abū Dawūd (2761)

⁸¹ The *Kāfir* from *Dār al-Harb* is called a *Harbī* (حربي)

⁸² *As-Siyar* 1/175

NOTE:

Apostates cannot grant a covenant of security to a *Harbī*. Therefore, the wise believer need not be fooled by these false and illegitimate *covenants of security* issued by apostate ‘Muslim’ leaders to the heads of *Kufr*. For such baseless treaties are only put in place to enable the same misguided disbelievers to undermine Islām, abuse, imprison, and murder the Muslims on a global scale.

النواقض العهود

ACTS THAT INVALIDATE TREATIES AND COVENANTS

If the *Kuffār*, who possess a valid treaty or covenant with the Muslims, commit any of the following acts, this nullifies and invalidates any treaty or covenant they may have had. Thus, they revert to the original status of the *Kuffār* - *ahl al-Harb*, in addition to being punished for the crimes they have committed:

1. Help the Muslim’s enemies against the Muslims in any way, whether it be physically, economically, with their tongues, or with their intellects
2. Kill a Muslim
3. Steal the wealth of a Muslim
4. Mention Allāh, His Qur’ān, or His Messenger ﷺ in an evil fashion
5. Spy on the Muslims
6. Commit adultery or fornication with a Muslim woman, or that which is similar, or leads to it⁸³
7. Encourage Muslims to renounce Islām, or attempt to put them into trial with regards to their religion, such as those who seek to cast doubts into the minds of the Muslims regarding Islām⁸⁴

⁸³ Or, any act that leads towards adultery or fornication, such as attempting to seduce the Muslim woman into committing immoral acts, or into ‘marriage’ with a *Kāfir*

...

As can be seen, those *Kuffār* belonging to the category of *Ahl al-‘Ahd* are exceptions to the general rule concerning the permissibility of blood and wealth of the *Kuffār*. Therefore, it is important that the believer is able to distinguish between those disbelievers whose blood and wealth Allāh, the Exalted, has permitted for the believers, and those whose blood and wealth He has forbidden.

Failure to make this distinction exposes the believer to the threat of Allāh's punishment mentioned in the following narration in *Sahīh al-Bukhārī*, in which the Prophet ﷺ said,

مَنْ قَتَلَ نَفْسًا مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ. وَإِنَّ رِيحَهَا يُوجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ

“Whoever killed a *Mu’āhad* (a person who is granted the pledge of protection by the Muslims) shall not smell the fragrance of Paradise though its fragrance can be smelt at a distance of forty years (of travelling).”⁸⁵

⁸⁴ In addition to these seven, ibn Qudāmah in *al-Mughnī* (9/283-284) mentions banditry and exposing the secrets or private affairs of the Muslims to the *Kuffār*, as additional acts that invalidate the treaty.

Likewise, Shaykh al-Islām ibn Taymiyyah said, “And indeed the texts (from the Qur’ān and *Sunnah*) indicate that the one who curses or disparages the Messenger ﷺ has nullified his covenant and is to be killed. (Also) like this, is the one who spies on the Muslims, fornicates with a Muslim women, kills a Muslim, or commits banditry.” (*Mukhtasar as-Sārim al-Maslūl*, p.34)

⁸⁵ *Sahīh al-Bukhārī* (6914)

الأحكام الديار

Classification of Lands

According to Islāmic principles, there are two general categories of places - *Dār al-Islām*, and *Dār-al Kufr*. Every single, region, country, or province falls into one of these two categories.

دار الإسلام

Dār al-Islām

A land (or place) in which the Muslims are in authority and the laws and governing system of Islām is apparent and dominant.

دار الكفر

Dār al-Kufr

A land (or place) in which the *Kuffār* are in authority and the laws and governing system of *Kufr* is apparent and dominant.

It is not a requirement that everyone residing in *Dār al-Islām* are Muslims – there may be *Kuffār* in *Dār al-Islām*, such as *ahl al-Dhimma*⁸⁶. The only exception to this rule is the Arabian Peninsula, as the Messenger of Allāh ﷺ gave the explicit command,

أُخْرِجُوا الْمُشْرِكُونَ مِنْ جَزِيرَةِ الْعَرَبِ

“Expel the Pagans from the Arabian Peninsula.”⁸⁷

Likewise, it is not a requirement that everyone residing in *Dār al-Kufr* are *Kuffār* – there may be Muslims residing in *Dār al-Kufr*, such as the situation we find the vast majority of Muslims in today. The presence of Muslims in the lands of the *Kuffār* is generally regarded as sinful, if they are not able to

⁸⁶ *ahl al-Dhimma* (أهل الذمة): the people of *Dhimma* (ذمة). A person who falls into this category is called *Dhimmi*

⁸⁷ *Sahīh al-Bukhārī* (3053)

practice Islām in its entirety, and are able to make *hijrah*⁸⁸ to the lands of the Muslims.

أَنَا بَرِيءٌ مِنْ كُلِّ مُسْلِمٍ يُقِيمُ بَيْنَ أَظْهَرِ الْمُشْرِكِينَ قَالُوا: يَا رَسُولَ اللَّهِ، لِمَ؟ قَالَ: لَا تَرَأَى نَارَهُمَا

The Messenger of Allāh ﷺ said, “I am free from every Muslim who settles amongst the polytheists, and I am free from every Muslim who lives with a polytheist.” It was asked of him, “Why, O Messenger of Allāh?” He replied, “None of them should see any light coming from (the house) of the other.”⁸⁹

However, it is not correct that the Muslims living in *Dār al-Kufr* be labelled as apostates, as some of the ignorant youth inclined to the *Takfīrī* methodology⁹⁰ have mistakenly pronounced. For example, the companions that stayed behind in Makkah after the *hijrah* was made obligatory on the Muslims were not labelled as ‘*Kuffār*’ or ‘apostates’ by the Messenger of Allāh ﷺ nor his companions.⁹¹

⁸⁸ *Hijrah* is generally defined as the migration for the sake of Allāh from *Dār al-Kufr* to *Dār al-Islām*. Refer to *Hijrah... So Flee to Allāh*

⁸⁹ *Sunan Abū Dawūd* (2645)

⁹⁰ *Takfīrī* (تكفيري): The one who deems Muslims that commit *Major Sins* that do not amount to acts of *Kufr*, to be apostates from the religion of Islām. They are a level down from the *Khawārij* who go a step further by shedding the blood, taking the wealth, and enslaving the women and children of those they (wrongfully) deem guilty of apostasy. Refer to Shaykh Abū Hamzah al-Misrī’s - may Allāh free him - *Khawaarij and Jihaad* and Shaykh Abū Muhammad al-Maqdisī’s, *Ar-Risālah ath-Thalāthīyah*.

⁹¹ Please refer to Shaykh Abū Muhammad al-Maqdisī’s treatise, *Takfīr based upon the rule ‘the principle ruling over the people is Kufr’ because the Dār is Dār Kufr*, for further details

الأقسام الديار الكفر

DĀR AL-KUFR AND ITS CATERGORIES

Dār al-Kufr is divided into two broad categories:

1. دار الحرب (*Dār al-Harb*)⁹²

There is no valid treaty or covenant between these lands and the Muslims.⁹³ The blood, wealth and honour of the *Kuffār* residing in these lands are permissible for the Muslims. This remains to be the case whether the *Kuffār* be in their own lands, or happen to be travelling or living in the lands of the Muslims (without a valid treaty).

2. دار المودة (*Dār al-Muwāda'a*)⁹⁴

A land in which there exists a valid covenant or peace treaty between its inhabitants (as a whole) and the Muslims. The blood, wealth and honour of the *Kuffār* residing in these lands are protected (impermissible) for the duration of the period of their covenant, if they faithfully uphold all of its terms and conditions.

Dār al-Kufr can be further sub-divided into another two types:

1. The *Dār al-Kufr* wherein its disbelieving inhabitants are 'original' *Kuffār*.⁹⁵ As such, treaties and covenants can be made with these disbelievers if there is benefit in it for the Muslims.

⁹² *Dār al-Harb* (دار الحرب): lit. the abode of war. The *Kāfir* residing there is called a *Harbī*

⁹³ However, there does not have to be on-going war or hostilities for a land to take this ruling

⁹⁴ Also known as *Dār al-Mu'āhadah* (دار المعاهدة)

⁹⁵ *Kuffār Asliyīn* (كفار أصليين): That is, their original religion is that of *Kufr*. Such as the Jews, Christians, and idol worshipers

2. The *Dār al-Kufr* that, at some point, used to be *Dār al-Islām*. This change from *Dār al-Islām* to *Dār al-Kufr* could have taken place in one of two ways:
 - i. The Muslim inhabitants (or rulers specifically) of the land apostatized from Islām and removed the rule of Islām from the land, introducing in its place the rule of *Kufr*, or
 - ii. The *Kuffār* forcibly took control over the land, introducing the rule of *Kufr* upon the inhabitants of the land.

Regarding the second type of *Dār al-Kufr*; it is *Wājib* (obligatory) upon the Muslims to wage *Jihād* against the *Kuffār* and/or apostates (ruling) in these lands until they leave the lands of the Muslims, or return back to Islām (from *Kufr*) and the rule of the *Sharī'ah*.⁹⁶

⁹⁶ Shaykh ‘Abdullāh ‘Azzām stated in his treatise, *Join the Caravan*, “Jihād today is individually obligatory (Fardh `ayn), by self and wealth, on every Muslim, and the Islamic community (*Ummah*) remains sinful until the last piece of Islamic land is freed from the hands of the Disbelievers, nor are any absolved from the sin other than the *Mujāhidīn*.”

لماذا تميّز بين دار الإسلام ودار الكفر؟

WHY DISTINGUISH BETWEEN DĀR AL-ISLĀM AND DĀR AL-KUFR?

By the *Ijmā'*⁹⁷ of the scholars of Islām it is *Wājib* upon the Muslims:

1. To make *hijrah* from *Dār al-Kufr* to *Dār al-Islām* if they have the ability to
2. To fight the *Kuffār* in their lands (wage offensive *Jihād*)

Regarding this, ibn an-Nuhhās states in *Mashāri' al-Ashwāq*:⁹⁸

Realize that attacking the non-believers in their territories is *Fardh al-Kifāyah*⁹⁹ with the consensus of the scholars. However, ibn al-Musayyib and ibn Shubrumah state that it is *Fardh al-'Ayn*.¹⁰⁰

⁹⁷ *Ijmā'* (الإجماع): ash-Shawkānī - may Allāh have mercy on him - stated in *Irshād al-Fuhūl* (p.68), "The agreement of the Mujtahidīn of the Ummah of Muhammad after his death in any given area upon any given matter. What is meant by agreement is sharing; either in a belief, statement, or action." It is considered as the third source of Islamic evidence, after the Qur'an and *Sunnah*. Allāh says in *Sūrah an-Nisā'* (4:115),

﴿وَمَنْ يُشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعْ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ نُوَلِّهِ مَا تَوَلَّىٰ وَنُصْلِهِ جَهَنَّمَ ۖ وَسَاءَتْ مَصِيرًا﴾

﴿And whoever opposes the Messenger after guidance has become clear to him and follows other than the way of the believers - We will give him what he has taken and drive him into Hell, and evil it is as a destination.﴾

⁹⁸ *Mashāri' al-Ashwāq*, pgs.28&29, and pgs.272&273 in the English translation

⁹⁹ *Fardh al-Kifāyah* (فرض الكفاية): a collective obligation - if a sufficient number of Muslims fulfil this duty, then the remaining Muslims will be absolved from the responsibility. However, if none fulfils the duty then everyone is deemed as sinful. An example of this is calling the *Athān*.

¹⁰⁰ *Fardh al-'Ayn* (فرض العين): in individual obligation, every single Muslim must perform this duty. Examples are the prayer, fasting, and the giving of *Zakāh*.

“The minimum participation in *Jihād* is once a year and more is always better. It is not allowed to have a year pass you by without any fighting except out of necessity like the weakness of Muslims and the great numbers of the enemy, or fear of extermination if you attack them first, or lack of provisions, or similar excuses. Otherwise, if there is no necessity it is not allowed to delay attacking the non-believers for more than a year.” Imām Shāfi’ī states that.

The Imām of al Harāmayn says, “I adopt the opinion of the scholars of *Usūl* (*Fiqh* - Islāmic Jurisprudence). They stated that *Jihād* is a mandatory call and must be established according to the ability until none remains in the world but a Muslim or one who has submitted to Muslims. Thus, *Jihād* is not limited to once a year. It should be done more frequently if possible. What the scholars of *fiqh* stated is because usually the time spent in preparations for combat limit the ability to wage war to once a year.”

The author of *al-Mugnī* (ibn Qudāmah) from the Hanbalī school states, “The minimum *Jihād* is once a year, so it is mandatory every year. If there is a need to fight more than once a year, it becomes mandatory on the Muslims to fulfil that need.”

Al-Qurtubī states in his *tafsīr*, “It is mandatory on the Imām to send an army of Muslims to the land of the enemy once every year and the Imam should participate himself in such expeditions. If not, then he should send someone capable whom he trusts, to call them to Islām, keep away their harm, to give victory to the religion of Allāh, until they enter Islām or pay *jizyah*.”

This is all regarding the *Jihād*, which is a collective duty (initiating war with the disbelievers in their territory). However, if the enemy enters the Muslim land, or even approaches it and masses on its borders, even if they do not actually enter it, and there armies are double the size of that of the Muslims or less, then *Jihād* becomes mandatory on each and every individual. Then, the slave leaves without the permission of the master, the woman without the

permission of her husband (if she has the strength to fight according to the stronger opinion), the son without the permission of the parents, and the one in debt without the permission of the lender. All of the above stated is the opinion of Imām Mālik, Ahmad, and Abū Hanīfah

الأحكام على سفك الدماء المسلم

Rulings on (Legitimately) Spilling the Blood of the Muslim

This chapter will focus on the exception to the general impermissibility of shedding the blood of the Muslim. The evidence for this principle is highlighted within the *Hadīth*:

The Messenger of Allāh ﷺ said,

أُمِرْتُ أَنْ أُقَاتِلَ النَّاسَ حَتَّى يَشْهَدُوا لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ وَيُقِيمُوا
الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ فَإِذَا فَعَلُوا ذَلِكَ عَصَمُوا مِنِّي دِمَائِهِمْ وَأَمْوَالَهُمْ إِلَّا بِحَقِّ
الْإِسْلَامِ وَحِسَابُهُمْ عَلَى اللَّهِ

“I have been ordered to fight against the people until they testify that there is none worthy of worship except Allāh and that Muhammad is the Messenger of Allāh, establish the prayer and give the zakāh. Then, if they do that, their blood and wealth will be protected from me – except in accordance with the right of Islām. And their reckoning will be with Allāh, the Exalted.”

Therefore, as opposed to the *Kuffār*, whose blood (and wealth) is permissible except in the specific cases previously mentioned, the Muslim's blood cannot be legitimately shed, except for in the following instances:

On the authority of ibn Mas'ūd (may Allāh be pleased with him) who said, The Messenger of Allāh ﷺ said,

لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا بِأَحَدٍ ثَلَاثٍ: الثَّيْبُ الزَّانِي وَالنَّفْسُ بِالنَّفْسِ وَالتَّارِكُ
لِدِينِهِ الْمُفَارِقُ لِلْجَمَاعَةِ

*“It is not legal [to spill] the blood of a Muslim except in one of three cases: the fornicator who has previously experienced legal sexual intercourse, a life for a life and one who forsakes his religion and separates from the community.”*¹⁰¹

¹⁰¹ *Sahīh al-Bukhārī and Sahīh Muslim*

In addition, other authentic narrations site additional cases in which the Muslim's blood may be spilled as an Islamic legal punishment (*hadd*), as found in additional authentic narrations. Some of these are as follows:

The Messenger of Allāh ﷺ said,

مَنْ أَتَاكُمْ وَأَمْرُكُمْ جَمِيعٌ عَلَى رَخْلٍ وَاحِدٍ أَنْ يَشُقَّ عَصَاكُمْ أَوْ يُفَرِّقَ جَمَاعَتَكُمْ
فَاقْتُلُوهُ

“When you are all united under one leader and someone comes to undermine your solidarity or disrupt your unity, you should kill him.” ¹⁰²

He ﷺ also said,

مَنْ وَجَدْتُمُوهُ يَعْمَلُ عَمَلُ لُوطٍ لَوْطٍ فَاقْتُلُوا الْفَاعِلَ وَالْمَفْعُولَ بِهِ

“Whoever you find doing the act of the people of Lot, then kill the one doing the act [of sodomy] and the one it is being done to.” ¹⁰³

In addition, ‘Alī ibn Abī Tālib said, “I heard the Messenger of Allāh ﷺ say,

سَيَخْرُجُ قَوْمٌ فِي آخِرِ الزَّمَانِ، أَحْدَاثُ الْأَسْنَانِ، سُفَهَاءُ الْأَحْلَامِ، يَقُولُونَ مِنْ خَيْرِ قَوْلِ
الْبَرِيَّةِ، لَا يُجَاوِزُ إِيْمَانُهُمْ حَنَاجِرَهُمْ، يَمْرُقُونَ مِنَ الدِّينِ، كَمَا يَمْرُقُ السَّهْمُ مِنَ
الرَّمِيَّةِ، فَأَيْنَمَا لَقِيتُمُوهُمْ فَاقْتُلُوهُمْ، فَإِنَّ فِي قَتْلِهِمْ أَجْرًا لِمَنْ قَتَلَهُمْ يَوْمَ الْقِيَامَةِ

‘There will emerge a group towards the end of time who will be young in age and have foolish minds, they will speak with the speech of the best of creation, but Imān [true faith] will not go beyond their throats, they will exit from the Dīn just as an arrow goes through its target. And if you encounter them, then kill them, for in fighting them there is a great reward on the Day of Judgement.’ ¹⁰⁴

¹⁰² Sahīh Muslim

¹⁰³ Sunan Abū Dawūd, Sunan at-Tirmidhī, Sunan ibn Mājah and others. This *hadīth* is referring specifically to the act of homosexual sodomy

¹⁰⁴ Sahīh al-Bukhārī and Sahīh Muslim

In summary they are:

1. The adulterer ¹⁰⁵
2. The murderer of a Muslim
3. The apostate from Islām
4. The one who attempts to cause disunity among the Muslim community
or *Khilāfah*
5. The one guilty of (homosexual) sodomy
6. The one who spies for the *Kuffār* against the Muslims
7. The *Khawārij*

...

Now, some of these crimes will be examined in more detail.

الزنا

ADULTERY

The one who is found guilty of committing adultery is to be stoned to death by the *Ijmā'* (consensus) of the scholars.

‘Abdullāh ibn Abbās reported that ‘Umar ibn al-Khattāb sat on the pulpit of the Messenger of Allāh (ﷺ) and said, “Verily, Allāh sent Muhammad with truth and He sent down the Book upon him, and the verse of stoning was

¹⁰⁵ As opposed to the fornicator, the adulterer is the one who has previously been in a valid marriage contract, even if they were not in one at the time of them committing adultery. The Islamic legally prescribed punishment (*Hadd*) for the fornicator is detailed in the following verse in *Sūrah an-Nūr* (24:2),

﴿الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ﴾

﴿The woman or man found guilty of fornication - lash each one of them with a hundred lashes...﴾

included in what was sent down to him. We recited it, retained it in our memory and understood it. The Messenger of Allāh awarded the punishment of stoning to death [to the married adulterer and adulteress] and after him we also awarded the punishment of stoning. I am afraid that, with the lapse of time, the people [may forget it] and say, ‘We do not find the punishment of stoning in the Book of Allāh,’ and thus go astray by abandoning the duty prescribed by Allāh. Stoning is a duty laid down in Allāh's Book for married men and women who commit adultery when proof is established, if there is pregnancy, or a confession.”¹⁰⁶

In addition, ibn Rajab al-Hanbalī, in *Jāmi' al-'Ulūm wa'l-Hikam* (p.122), cites the scholarly consensus (*Ijmā'*) on the punishment for adultery being that the guilty are stoned to death.¹⁰⁷

However, for the punishment (of stoning) to take effect, the following conditions must be present in the guilty person:

1. They are *Mukallaf*¹⁰⁸
2. They are free (i.e. not a slave)

¹⁰⁶ *Sahīh al-Bukhārī, Sahīh Muslim, and al-Muwatta'*

This above narration of ‘Umar is referring to the concept of ‘abrogation.’ The basis for this principle is found in the noble verse in *Sūrah al-Baqarah* (2:106),

﴿مَا نَنْسَخْ مِنْ آيَةٍ أَوْ نُنسِهَا نَأْتِ بِخَيْرٍ مِنْهَا أَوْ مِثْلَهَا ۗ﴾

﴿We do not abrogate a verse or cause it to be forgotten except that We bring forth [one] better than it or similar to it.﴾

The particular mode of the abrogation present in this narration, is “Abrogation of the recited (verse) without the legal ruling.” (i.e. the legal ruling remains intact even though the verse(s) are no longer part of the Qur’ān.) (Von Denffer, ‘*Ulum al-Qur’ān*. Also refer to Y. Qadhi, *An Introduction to the Sciences of the Qur’aan*, pp.232-256)

¹⁰⁷ He also mentions a narration, recorded by an-Nasā’ī in his *Sunan*, in which the Prophet ﷺ said,

لَا يَجِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا بِأَحَدٍ ثَلَاثٍ: رَجُلٌ زَنَى بَعْدَ إِحْصَانِهِ فَعَلَيْهِ الرَّجْمُ...

“It is not legal [to spill] the blood of a Muslim except in one of three cases: the adulterer who has previously experienced legal sexual intercourse, therefore he should be stoned (to death)...”

¹⁰⁸ *Al-Mukallaf* (المكلف): The one is deemed as responsible according to Islām. This consists of two factors;

1. They are an adult [in Islām, this is when someone has reached the age of puberty], and
2. They are of sound mind

3. They are, or have been previously married

In addition, the *Hanaḥfī* and *Mālikī* schools of thought have the following condition:

4. That the adulterer has a Muslim wife

Hanaḥfī (only) have also stipulated a final condition:

5. The first two conditions must be found in the wife of the adulterer

النفس بالنفس

MURDER

The one (or group) found guilty of Murdering a Muslim is killed in retaliation (*Qisās*) as is mentioned in the Qur'ān:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ ۖ الْحُرُّ بِالْحُرِّ
وَالْعَبْدُ بِالْعَبْدِ ۖ وَالْأُنثَىٰ بِالْأُنثَىٰ﴾

﴿O you who have believed, prescribed for you is legal retribution for those murdered - the free for the free, the slave for the slave, and the female for the female...﴾¹⁰⁹

As is the case for the adulterer, the murderer(s) must meet certain conditions for the punishment to take place:

1. They must be *Mukallaf* (Islamically responsible)
2. The murderer is not the father of the murdered¹¹⁰

¹⁰⁹ *Al-Baqarah* (2):178

¹¹⁰ According to the *Hanaḥfī*, *Mālikī* and *Shāfi'ī* schools of thought, the father should not be killed in retaliation for murdering his own son. As evidence for this, they cite the following

3. The murdered must be a Muslim¹¹¹

The murderer should be executed in the same manner in which they killed, as can be seen in the following narration:

Anas bin Mālīk narrated:

عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: قَدِمَ رَهْطٌ مِنْ عُكْلٍ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، كَانُوا فِي الصُّفَّةِ، فَاجْتَوَوْا الْمَدِينَةَ، فَقَالُوا: يَا رَسُولَ اللَّهِ، أَبْعِنَا رِسْلًا، فَقَالَ: مَا أَجْدُ لَكُمْ إِلَّا أَنْ تَلْحَقُوا بِإِبِلِ رَسُولِ اللَّهِ فَاتَوَّهَا، فَشَرِبُوا مِنْ أَلْبَانِهَا وَأَبْوَالِهَا، حَتَّى صَحُّوا وَسَمِنُوا وَقَتَلُوا الرَّاعِيَ وَاسْتَأْفَوْا الدَّوْدَ، فَآتَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الصَّرِيخَ، فَبَعَثَ الطَّلَبَ فِي آثَارِهِمْ، فَمَا تَرَجَّلَ النَّهَارُ حَتَّى أُتِيَ بِهِمْ، فَأَمَرَ بِمَسَامِيرَ فَأُخِمِيَتْ، فَكَحَلَهُمْ، وَقَطَعَ أَيْدِيَهُمْ وَأَرْجُلَهُمْ وَمَا حَسَمَهُمْ، ثُمَّ أُلْقُوا فِي الْحَرَّةِ، يَسْتَسْقُونَ فَمَا سُقُوا حَتَّى مَاتُوا قَالَ أَبُو قِلَابَةَ: سَرَقُوا وَقَتَلُوا وَحَارَبُوا اللَّهَ وَرَسُولَهُ

“A group of eight men from the tribe of ‘Ukil came to the Prophet, and then they found the climate of Madinah unsuitable for them. So they said, ‘O Messenger of Allāh! Provide us with some milk.’ The Messenger of Allāh said, ‘I recommend that you should join the herd of camels.’ So, they went and drank the urine and the milk of the camels as a medicine until they became healthy and fat. Then, they killed the shepherd and drove away the

narration from ‘Umar ibn al-Khattāb, who said that he heard the Messenger of Allāh ﷺ saying,

لَا يُقَادُّ الْوَالِدُ بِلَوْلَدٍ

“The father is not to be killed (in retaliation) for his son.” (Ahmad, at-Tirmidhī, and ibn Mājah. Declared authentic by al-Jarūd and al-Bayhaqī). Additionally, refer to al-Qurtubī’s commentary in his *Tafsīr* (1/638-639) on the verse 2:178, and *as-Subul as-Salām* (2/932)

¹¹¹ The majority opinion is that the Muslim is not killed in retaliation for the murder of a *Dhimmī*, or *Kāfir* under a valid covenant or treaty, according to the *hadīth*, in which The Messenger of Allāh ﷺ said, “A Muslim is not to be killed for a non-Muslim.” (*Sahīh al-Bukhārī*)

However, the Hanafī’s argue using a *Hadīth* classified as weak by the scholars of *Hadīth*, that the Muslim should be killed for the murder of a *Dhimmī*, or *Kāfir* under a valid covenant or treaty

camels, and they disbelieved after they were Muslims. When a caller for help informed the Prophet, he sent some men in their pursuit, and before the sun rose high, they were brought to him. He had their hands and feet cut off, then he ordered for nails, which were heated and passed over their eyes, and they were left in the rocky desert. They asked for water, and nobody provided them with water until they died.”¹¹²

متى يسقط القصاص؟

WHEN IS THE QISĀS WAIVED?

Allāh the Most High says,

﴿فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبَاعُ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ۖ ذَٰلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ ۖ فَمَنِ اعْتَدَىٰ بَعْدَ ذَٰلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ۚ وَلَكُمْ فِي الْقِصَاصِ حَيَاةٌ يَا أُولِي الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ﴾

*... But whoever overlooks from his brother [i.e., the killer] anything, then there should be a suitable follow-up and payment to him [i.e., the deceased's heir or legal representative] with good conduct. This is an alleviation from your Lord and a mercy. But whoever transgresses after that will have a painful punishment. And there is for you in legal retribution [saving of] life, O you [people] of understanding, that you may become righteous.*¹¹³

¹¹² *Sahīh al-Bukhārī* (233, 3018, 4610, 6899) and *Sahīh Muslim* (1671)

¹¹³ *Al-Baqarah* (2):178-179

Therefore, the *Qisās* is not carried out in the following situations:

1. If the murderer dies before he is caught and punished
2. If the murderer is pardoned by the family of the murdered
3. If the murderer makes a deal with the family of the murdered (i.e. to pay 'blood-money')
4. If a free man kills a slave, according to the majority opinion ¹¹⁴

The evidence for the second and third situation can be found in Allāh, the Most High's statement,

﴿فَمَنْ عَفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبَاعٌ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ ۖ فَمَنِ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ﴾

﴿... But whoever overlooks from his brother [i.e., the killer] anything, then there should be a suitable follow-up and payment to him [i.e., the deceased's heir or legal representative] with good conduct. This is an alleviation from your Lord and a mercy. But whoever transgresses after that will have a painful punishment.﴾ ¹¹⁵

¹¹⁴ Abū Hanīfah and his companions say that if a man kills his own slave, he is not to be killed; but if a man kills somebody else's slave, he is to be killed. Yet others hold the view that a free person is to be killed for killing any slave. This was the opinion of (Sufyān) ath-Thawrī and a number of the scholars of 'the school of *Hadīth*'. Refer to the *Commentary on the Forty Hadīth of an-Nawawī* (1/514), the commentary on the verse 2:178 in *Tafsīr al-Qurtubī* (1/636-637), and *Subul as-Salām* (2/930-932)

¹¹⁵ *Al-Baqarah* (2):179

الأقسام الردّة والأحكام المرتد

Types of Apostasy and the Ruling(s) on
the Apostate

The issue of apostasy (*Riddah*) relates to the same part of the *Hadith* as the preceding chapter covered:

فَإِذَا فَعَلُوا ذَلِكَ عَصَمُوا مِنِّي دِمَائَهُمْ وَأَمْوَالَهُمْ إِلَّا بَحَقَّ الْإِسْلَامُ

“...Then, if they do that, their blood and wealth will be protected from me – except in accordance with the right of Islām...”

In addition, the Messenger of Allāh ﷺ said,

مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ

“Whoever changes his religion (from Islām) is to be killed.”¹¹⁶

Apostasy in Islāmic terminology refers to the one who enters into *Kufr* (disbelief) after having been a Muslim. Entering into *Kufr* (after Islām) can be done with belief, word, or action, by committing any one of the ‘Nullifiers of Islām’, as stated by Allāh, and His Messenger ﷺ.¹¹⁷

However, if one enters into *Kufr* with their beliefs alone, (without accompanying words or actions) no one is able to split open their hearts to know what they conceal. Therefore they cannot be labelled as apostates, (as they display Islām with their outward actions) so they are treated as Muslims. This is in accordance with the statement of Messenger of Allāh ﷺ,

إِنِّي لَمْ أُؤْمَرْ أَنْ أَنْقَبَ عَنِ قُلُوبِ النَّاسِ وَلَا أَشُقَّ بُطُونَهُمْ

“I have not been ordered to investing ate the hearts of the people, nor to rip open their bellies.”¹¹⁸

However, Allāh knows what they conceal within their hearts and informs the believers about them,

¹¹⁶ *Sahīh al-Bukhārī*

¹¹⁷ Please refer to books such as Shaykh Muhammad ibn ‘Abdul-Wahhāb’s *Nullifiers of Islām* for further details

¹¹⁸ *Sahīh al-Bukhārī* and *Sahīh Muslim*

﴿وَمِنَ النَّاسِ مَن يَقُولُ آمَنَّا بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَمَا هُمْ بِمُؤْمِنِينَ ﴿٦٦﴾ يُخَادِعُونَ اللَّهَ وَالَّذِينَ آمَنُوا وَمَا يَخْدَعُونَ إِلَّا أَنفُسَهُمْ وَمَا يَشْعُرُونَ ﴿٦٧﴾ فِي قُلُوبِهِم مَّرَضٌ فَزَادَهُمُ اللَّهُ مَرَضًا ۖ وَلَهُمْ عَذَابٌ أَلِيمٌ ﴿٦٨﴾ بِمَا كَانُوا يَكْذِبُونَ﴾

*And of the people are some who say, "We believe in Allāh and the Last Day," but they are not believers. They [think to] deceive Allāh and those who believe, but they deceive not except themselves and perceive [it] not. In their hearts is disease, so Allāh has increased their disease; and for them is a painful punishment because they [habitually] used to lie.*¹¹⁹

الأنواع الردّة

TYPES OF APOSTASY

1. الردّة المجردة (Al-Mujarradah)

This refers to the apostasy that is not accompanied with any (additional) aggravating factors. As such, the apostate guilty of this type of apostasy does not harm or insult Islām or the Muslims with word or deed (such as the one who abandons the prayer). Once apprehended and found guilty of apostasy, they are detained and given three days to repent and return to Islām. If they do so, then they are released. However, if they refuse and insist upon *Kufr*, they are executed for their apostasy.

Ibn Jarīr (at-Tabarī) recorded that ibn ‘Abbās said, “A man from the *Ansār* embraced Islām, but later reverted and joined the polytheists. He later became sorry and sent to his people to, ‘Ask the Messenger of Allāh for me,

¹¹⁹ Al-Baqarah (2):8-10

if I can repent.’ Then (the verse), **﴿How shall Allāh guide a people who disbelieved after their belief﴾** until, **﴿For indeed, Allāh is Forgiving and Merciful﴾** was revealed and his people sent word to him and he re-embraced Islām.¹²⁰

Mālik narrated to me from ‘Abdur-Rahmān ibn Muhammad ibn ‘Abdullāh ibn ‘Abdul-Qārī that his father said, “A man came to ‘Umar ibn al-Khattāb from Abū Musa al-‘Ash’arī. ‘Umar asked after various people, and he informed him. Then ‘Umar inquired, ‘do you have any recent news?’ He said, ‘Yes. A man has become a *Kāfir* after his Islām.’ ‘Umar asked, ‘What have you done with him?’ He said, ‘We let him approach and struck off his head.’ ‘Umar said, ‘didn’t you imprison him for three days and feed him a load of bread every day and call on him to repent, that he might turn in repentance and return to the command of Allāh?’ Then ‘Umar said, ‘O Allāh! I was not present and I did not order it and I am not pleased since it has come to me!’”¹²¹

Ibn Qudāmah said in *al-Mughnī* (9/18), “The apostate should not be put to death until he has been asked to repent three times. This is the view of the majority of scholars, including ‘Umar, ‘Alī, ‘Atā’, an-Nakhā’ī, Mālik, ath-Thawrī, al-Awzā’ī, Ishāq, and others. (This is) because apostasy comes about because of a doubt, and cannot be dispelled in an instant, (therefore) time

¹²⁰ *At-Tabarī* (6/572), in *Tafsīr ibn Kathīr* 2/205

The complete verses are in *Sūrah Āl ‘Imrān* (3:86-89),

﴿كَيْفَ يَهْدِي اللَّهُ قَوْمًا كَفَرُوا بَعْدَ إِيمَانِهِمْ وَشَهِدُوا أَنَّ الرَّسُولَ حَقٌّ وَجَاءَهُمُ
الْبَيِّنَاتُ ۚ وَاللَّهُ لَا يَهْدِي الْقَوْمَ الظَّالِمِينَ﴾ ﴿أُولَٰئِكَ جَزَاؤُهُمْ أَنَّ عَلَيْهِمْ لَعْنَةَ اللَّهِ
وَالْمَلَائِكَةِ وَالنَّاسِ أَجْمَعِينَ خَالِدِينَ فِيهَا لَا يُخَفَّفُ عَنْهُمْ الْعَذَابُ وَلَا هُمْ
يُنظَرُونَ﴾ إِلَّا الَّذِينَ تَابُوا مِن بَعْدِ ذَٰلِكَ وَأَصْلَحُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ﴿

﴿How shall Allāh guide a people who disbelieved after their belief and had witnessed that the Messenger is true and clear signs had come to them? And Allāh does not guide the wrongdoing people. Those – their recompense will be that upon them is the curse of Allāh and the angels and the people, all together. Abiding eternally therein. The punishment will not be lightened for them, nor will they be reprieved. Except for those who repent after that and correct themselves. For indeed, Allāh is Forgiving and Merciful.﴾

¹²¹ *Al-Muwatta’*

should be allowed for the person to rethink the matter, and the best length of time is three days.”

2. الردة المغلظة (Al-Mughaladhah)

This occurs when the apostate adds additional crimes, which harm Islām and the Muslims, to his or her apostasy. Therefore, in this case the apostate(s) is considered to be actively fighting against Allāh and His messenger ﷺ.¹²² If the leader of the Muslims catches this apostate before they repent, then they are killed after being found guilty (regardless if they eventually repent after being caught). They are not granted time to repent nor granted security.

Evidence for this is in the following verse, in which Allāh the Almighty says,

﴿إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ۚ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ۖ إِلَّا الَّذِينَ تَابُوا مِنَ قَبْلِ أَنْ تَقَدِّرُوا عَلَيْهِمْ ۖ فَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾

*«Indeed, the penalty for those who wage war against Allāh and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment. Except for those who return [repenting] before you overcome [i.e. apprehend] them. And know that Allāh is Forgiving and Merciful.»*¹²³

¹²² This may be done with the actions, tongue, money, or the intellect

¹²³ Al-Mā'idah (5):33-34

Likewise, in the lifetime of the Prophet ﷺ the following incident took place:

عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ رَهْطًا مِنْ عُكْلٍ، أَوْ قَالَ: عُرَيْنَةَ، وَلَا أَعْلَمُهُ إِلَّا قَالَ: مِنْ
عُكْلٍ، قَدِمُوا الْمَدِينَةَ فَأَمَرَ لَهُمُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِلِقَاحٍ، وَأَمَرَهُمْ أَنْ
يَخْرُجُوا فَيَشْرَبُوا مِنْ أَبْوَالِهَا وَالْبَانِيهَا فَشَرَبُوا حَتَّى إِذَا بَرِئُوا قَتَلُوا الرَّاعِي، وَاسْتَأْفُوا
النَّعَمَ، فَبَلَغَ ذَلِكَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ غُدُوَّةً، فَبَعَثَ الطَّلَبَ فِي إِثْرِهِمْ، فَمَا
ارْتَفَعَ النَّهَارُ حَتَّى جَاءَ بِهِمْ. فَأَمَرَ بِهِمْ فَقَطَعَ أَيْدِيَهُمْ وَأَرْجُلَهُمْ وَسَمَرَ أَعْيُنَهُمْ، فَأُلْقُوا
بِالْحَرَّةِ يَسْتَسْقُونَ فَلَا يُسْقَوْنَ. قَالَ أَبُو قِلَابَةَ: هَؤُلَاءِ قَوْمٌ سَرَقُوا وَقَتَلُوا وَكَفَرُوا بَعْدَ
إِيمَانِهِمْ، وَحَارَبُوا اللَّهَ وَرَسُولَهُ

Anas said, “Some people of ‘Ukl or ‘Urayana tribe came to Madinah and its climate did not suit them. Therefore, the Prophet ordered them to go to the herd of camels and to drink their milk and urine (as a medicine). So they went as directed and after they became healthy, they killed the shepherd of the Prophet and drove away all the camels. The news reached the Prophet early in the morning and he sent (men) in their pursuit who captured them and brought them at noon. He then ordered to cut their hands and feet (and it was done), and their eyes were branded with heated pieces of iron. They were put in ‘al-Harra’ and when they asked for water; no water was given to them.” Abū Qilabah said, “Those people committed theft and murder, became infidels after embracing Islām and fought against Allāh and His Messenger.”¹²⁴

...

Shaykh al-Islām ibn Taymiyyah said regarding the apostate, “the difference between the apostate found guilty of *Riddah al-Mujarradah*, is that he is killed unless he repents, and the apostate found guilty of *Riddah al-*

¹²⁴ *Sahīh al-Bukhārī*

Mughaladhah, is that he is killed without being asked to repent.” (i.e. even if he or she does repent to Allāh the Most Merciful after they are apprehended, it does not prevent their execution).¹²⁵

الأنواع المرتدين

TYPES OF APOSTATES

The apostates can be divided into two categories, and this directly relates to how they are dealt with in terms of the force that the state employs to bring them to justice. They are:

1. المقدور عليه (The apostate who is under the authority of the state)¹²⁶
2. الطائفة الممتنعة (The ‘Rebelling Party’)¹²⁷

المقدور عليه

THE APOSTATE WHO IS UNDER THE AUTHORITY OF THE STATE

This is the apostate that has been brought under the authority and control of the Islāmic state and its judicial system. The *Hadd* for apostasy is established upon them, however with this type of apostate, it is obligatory to clarify the matters of the religion that they fell into confusion about, and that, they have

¹²⁵ *Majmū' al-Fatāwā*

¹²⁶ i.e. they do not resist and fight against the authority of the legitimate ruler, therefore the state is able to apprehend and try them in an Islamic court.

¹²⁷ i.e. they refuse any attempts the state makes to apprehend them for their crimes, and actively resist arrest by threat or by force.

fallen into apostasy because of their misunderstanding of Islām. It is also obligatory to encourage them to repent, and thus return to Islām.¹²⁸ This is in contrast to the 'abstaining' apostate who is out of the authority and control of the Islāmic state, such being that the *Hadd* is not able to be carried out upon them, neither are the *Shar'ī* proofs able to be conveyed and established as evidence against him, as he is actively resisting capture.

الطائفة الممتنة

THE 'REBELLING PARTY'

Imtinā'ah (rebellion) is of two types; the first is of the one who abandons an aspect(s) of the *Sharī'ah*. Such as the one who refuses to pay the *zakāh*, or to fast (in *Ramadhān*), but practices the rest of the acts prescribed in the *Sharī'ah*. The second is the one who abandons from the religion in its entirety. As such, those from this category are brought to justice only after they are fought against, and physically subdued.

This rebellion can take the following forms:

1. Abandoning the land of the Muslims (*Dār al-Islām*), for the land of the *Kuffār* (*Dār al-Kufr*), or abandoning the friendship and alliance of the Muslims for that of the *Kuffār*.
2. Rebelling from, and resisting against the authority of the Muslim leader by force, such as in the case of an armed rebellion. This is a group that has not, like the previously mentioned group, left the Muslims and joined

¹²⁸ Depending on the nature of their apostasy, the *Hadd* may be waived upon their repentance, such as the one who falls into apostasy because of his/her abandonment of the prayer; if he/she repents and resumes praying, they are not to be punished. Alternatively, it may still be carried out, regardless of their repentance or not. Such as the one who curses the Prophet ﷺ, or spies against the Muslims on behalf of the *Kuffār*. In this case, the difference is that the one who repents is executed for his crime, but is still considered a Muslim, while the unrepentant is executed for their crime as an apostate.

the camp of the *Kuffār* , but has remained amongst the Muslims (in *Dār al-Islām*), but instead has forcibly resisted the authority of the state by employing the deterrent of force, or by actually fighting upon their falsehood and evil.

However, according to Shaykh al-Islām ibn Taymiyyah, if a person from this group should repent and hand themselves over to the authorities, he would revert back to being from the first category (*al-Maqdūr ‘alay*).¹²⁹

هل يستتاب المرتد؟

SHOULD THE APOSTATE BE CALLED UPON TO REPENT?

The repentance referred to here has two stages:

1. The first stage is, to make clear the conditions and evidence (*Hujjah*) against the one that committed a statement or action of disbelief (*Kufr*). So, if someone commits an act of *Kufr*, the scholars are obliged to examine their case to see if there are any conditions, and/or factors present that would prevent the ruling of *Kufr* from being levelled upon the individual(s), even though they did an act of *Kufr*.¹³⁰

Shaykh Ibn Taymiyyah says, “As for the four compulsory acts; if someone denies one of them after the *Hujjah* (proof) has been made plain to him, then he is a *Kāfir*. Likewise, if someone was to deny the prohibition of one of the prohibited (*harām*) acts that are known, and agreed upon everywhere to be *Harām*, like (sexual) immorality, oppression, lying, intoxicants, and the like. As for those who have not received the *Hujjah*, like someone new to Islām,

¹²⁹ Refer to *Sārim al-Maslūl*

¹³⁰ For example, a person may commit an act of *Kufr* (that is somewhat obscure to the majority of Muslims) out of ignorance [i.e. they thought that it was permissible to do], or they were insane, or because they were forced to do so by an oppressor.

or someone that lives in a distant area where the call of Islām has not reached, or made a mistake by thinking that those who believe and do good deeds are not prohibited from drinking alcohol, as those who ‘Umar (ibn al-Khattāb) asked to repent and their likes. They are requested to repent and the *Hujjah* is explained to them. If they are stubborn upon their previous belief (or act), then they become *Kuffār*, however the ruling (of disbelief) isn’t applied to them before this (process) takes place.”

The above steps are *Wājib* to be taken in the case of the one who is under the authority of the state.

As for the ‘*mumtani’ah*’, then there is no need for the state to request their repentance because they have travelled (out of the reach of the state’s authority) to reside amongst the *Kuffār*, or they are resisting the authority of the state by force.

2. The second stage of the ‘repentance,’ is encouraging those ruled to be apostates to repent and return to Islām. Allāh, the Glorified, says,

﴿... they had said the word of disbelief and disbelieved after their [pretence of] Islām﴾ until, ﴿... So if they repent, it is better for them...﴾¹³¹

¹³¹ *At-Tawbah* (9):74. The complete verse is,

﴿يَحْلِفُونَ بِاللَّهِ مَا قَالُوا وَلَقَدْ قَالُوا كَلِمَةَ الْكُفْرِ وَكَفَرُوا بَعْدَ إِسْلَامِهِمْ وَهُمْ
بِمَا لَمْ يَنَالُوا^١ وَمَا نَقَمُوا إِلَّا أَنْ أَغْنَاهُمُ اللَّهُ وَرَسُولُهُ مِنْ فَضْلِهِ^٢ فَإِنْ يَتُوبُوا يَكُ
خَيْرًا لَهُمْ^٣ وَإِنْ يَتَوَلَّوْا يُعَذِّبُهُمُ اللَّهُ عَذَابًا أَلِيمًا فِي الدُّنْيَا وَالْآخِرَةِ^٤ وَمَا لَهُمْ فِي
الْأَرْضِ مِنْ وَلِيٍّ وَلَا نَصِيرٍ﴾

﴿They swear by Allāh that they did not say [anything against the Prophet] while they had said the word of disbelief and disbelieved after their [pretence of] Islām and planned that which they were not to attain. And they were not resentful except [for the fact] that Allāh and His Messenger had enriched them of His bounty. So if they repent, it is better for them; but if they turn away, Allāh will punish them with a painful punishment in this world and the Hereafter. And there will not be for them on earth any protector or helper.﴾

He also says,

﴿How shall Allāh guide a people who disbelieved after their belief...﴾ until He says, ﴿... Except for those who repent after that and correct themselves...﴾¹³²

هل يجب على القاضي أن يستتاب المرتد؟

IS IT WĀJIB FOR THE JUDGE TO ASK THE APOSTATE TO REPENT?

There are two opinions concerning this. The first states that it is recommended for those in authority to request the one found guilty of apostasy to repent, while the second argues that it is compulsory (*Wājib*) to seek their repentance. The preceding narration of ‘Umar (ibn al-Khattāb) recorded in *al-Muwatta* is used to support the second opinion, and this is the correct opinion, and Allāh knows best.¹³³

كيفية التوبة المرتد

HOW DOES THE APOSTATE REPENT?

It is not sufficient for the apostate to reaffirm and utter the *Shahādah*, rather the apostate is required to rectify the action, word, or belief that was the cause of their apostasy. For example, if a person abandoned the prayer,

¹³² *Āl ‘Imrān* (3):86-89

¹³³ However, this does not necessarily cause their punishment to be waived, such as the one guilty of cursing or disparaging the Messenger ﷺ, the spy, and the one who aids the *Kuffār* against the Muslims

he/she must return to performing the prayer. While if they publically proclaimed Allāh to have a son, they must publically proclaim Him to be free from such falsehood. Moreover, if they disbelieved in the *Jinn*, they must now believe in the *Jinn*. Failing to do such will render their ‘repentance’ unacceptable.¹³⁴

¹³⁴ Evidence for this is found in the noble verses (2:160),

﴿إِلَّا الَّذِينَ تَابُوا وَأَصْلَحُوا وَبَيَّنُّوا فَأُولَٰئِكَ أَتُوبُ عَلَيْهِمْ وَأَنَا التَّوَّابُ الرَّحِيمُ﴾

«Except for those who repent and correct themselves and make evident [what they concealed]. Those - I will accept their repentance, and I am the Accepting of repentance, the Merciful.»

And (3:89),

﴿إِلَّا الَّذِينَ تَابُوا مِنْ بَعْدِ ذَٰلِكَ وَأَصْلَحُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾

«Except for those who repent after that and correct themselves. For indeed, Allāh is Forgiving and Merciful.»

Ibn Kathīr says in his *tafsīr* regarding the apostate’s repentance, “That he rectifies whatever he wronged from whatever he is able to.” Also, refer to *Tafsīr al-Qurtubī* (1/586 and 2/493)

This point refutes the misguided claims of the *neo-Murji’ah*, who argue that even if the rulers of the Arab world do commit acts of apostasy (by abandoning, rejecting, and replacing the *Sharī’ah*, and aiding and allying with the enemies of Islām against the Muslims), every time they perform the prayer, they have re-entered Islām (as the *Shahādah* is pronounced as part of the ‘*Tahīyyāt*’). Therefore, no one can ever label them, or deal with them as apostates!

This claim is further refuted by ibn Qudāmah, in *al-Mughnī*, who cites the opinions of Imām Mālik, al-Layth (ibn Sa’d), Ishāq, Abū Hanīfah, and Abū Bakr, who did not accept the repentance of the *Zindīq* (the one who displays acts of Kufr, but nevertheless maintains he is still a Muslim) or the person who apostates repeatedly. He (ibn Qudāmah) then cited the verse (4:137),

﴿إِنَّ الَّذِينَ آمَنُوا ثُمَّ كَفَرُوا ثُمَّ آمَنُوا ثُمَّ كَفَرُوا ثُمَّ أَرَادُوا كُفْرًا لَمْ يَكُنِ اللَّهُ لِيَغْفِرْ لَهُمْ وَلَا لِيَهْدِيَهُمْ سَبِيلًا﴾

«Indeed, those who have believed then disbelieved, then believed, then disbelieved, and then increased in disbelief - never will Allāh forgive them, nor will He guide them to a way.»

الحكم الفئة المحاربة

Ruling on the 'Warring Party'¹³⁵

¹³⁵ These are those referred to by Allāh the Exalted in the verses (5:33-34),

﴿إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ۚ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ۖ إِلَّا الَّذِينَ تَابُوا مِنْ قَبْلِ أَنْ تَقْدِرُوا عَلَيْهِمْ ۖ فَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾

«Indeed, the penalty for those who wage war against Allāh and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment. Except for those who return [repenting] before you overcome [i.e., apprehend] them. And know that Allāh is Forgiving and Merciful.»

Refer to *al-Jāmi' al-Ahkām* (3/508-519) for a full discussion on the contents of this chapter in al-Qurtubī's *Tafsīr* of the above verse

In the preceding chapter, the actions that permit the (legitimate) spilling of the Muslim's blood were cited. We will now discuss the case of the 'Warring Party' (*at-Tā'ifah al-Muhāribah*) - another category of Muslims who Islām permits the spilling of their blood because of their crimes.

*Ahl al-Hirrābah*¹³⁶ in Islāmic terminology refers to a people who 'cut the road'.¹³⁷ In reality, this refers to the armed highway robbers, bandits, and criminals, residing in *Dār al Islām*, that rebel from the authority of the state (and the laws of Islām). Their rebellion consists of shedding the blood, robbing, generally terrorising, and/or assaulting the honour of the Muslims living in *Dār al-Islām*.

Scholars of *Fiqh* have stipulated the following conditions for *Hirrābah*:¹³⁸

1. The laws (and authority) of Islām (the *Sharī'ah*) is binding (*Al-Iltizām*) upon them¹³⁹
2. They are *Mukallaf*
3. They are armed
4. They operate in remote areas¹⁴⁰
5. They are male
6. Their crimes are *Mujahharah* (blatant and outright)¹⁴¹

¹³⁶ أهل الحاربة (*Ahl al-Hirrābah*): Lit. the warring people

¹³⁷ In Arabic, the term قَطَاع الطريق is used

¹³⁸ Refer to *al-Jāmi' al-Ahkām*, 3/508-519

¹³⁹ Such as for those that live under the authority of the Islāmic state or country

¹⁴⁰ Such as those that operate in the deserts or mountains, distant from the reach of the state's authority

¹⁴¹ i.e. their crimes do not involve deception, trickery, or the likes (i.e. they do not stealthily steal, but rather they forcefully rob). The word '*jahharah*' is used in the verses (2:55-56),

﴿وَإِذْ قُلْتُمْ يَا مُوسَىٰ لَنْ نُؤْمِنَ لَكَ حَتَّىٰ نَرَىٰ اللَّهَ جَهْرَةً فَأَخَذَتْكُمُ الصَّاعِقَةُ

وَأَنْتُمْ تَنْظُرُونَ ﴿ ثُمَّ بَعَثْنَاكُم مِّن بَعْدِ مَوْتِكُمْ لَعَلَّكُمْ تَشْكُرُونَ ﴿

﴿And [recall] when you said, "O Moses, we will never believe you until we see Allāh jahharah (outright)"; so the thunderbolt took you while you were looking on. Then We revived you after your death that perhaps you would be grateful.﴾

الملتزمين

AL-MULTAZIMĪN

Those who the laws of Islām are binding upon (*al-Multazimīn*) are the Muslims and *ahl adh-Dhimma* who live under the protection and authority of the Islāmic state and are required (by law) to abide by the *Sharī'ah*.

The *ahl al-Harb* and the *Kuffār* under the protection of covenants of security or peace treaties (with the Muslims) are not regarded as being from at-*Tā'ifah al-Muhāribah*. Even if they do shed the blood, steal, and/or assault the honour of the Muslims living in *Dār al-Islām*, it is already *Wājib* upon the Muslims to fight (wage *Jihād* against) the *Harbī*.¹⁴² In addition, if those under treaties/covenants commit any acts that invalidate any of the conditions of treaties/covenants, they revert to being from the *Muhāribīn*,¹⁴³ thus legitimising their blood and wealth for the Muslims.

التكليف

TAKLĪF

This means that the *Muhārib* is *Mukallaf* (Islamically deemed responsible for their actions). This consists of two factors:

1. Above the age of puberty
2. Of sound mind (i.e. not insane)

¹⁴² As Allāh has commanded the believers in *Sūrah at-Tawbah* (9:5),

﴿فَإِذَا انْسَلَخَ الْأَشْهُرُ الْحُرُمُ فَاقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ وَخُذُوهُمْ
وَاحْصُرُوهُمْ وَأَقْعُدُوا لَهُمْ كُلَّ مَرْصِدٍ﴾

﴿And when the sacred months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush.﴾

¹⁴³ *Muhāribīn* (المحاربين) : pl. of *Muhārib* (محارب)

المسلّح

ARMED

This condition stipulates that weapons be employed in the commission of their crimes and rebellion. The *Hanafī's* and *Hanbalī's* state that this is a condition, even if these weapons only consist of sticks and rocks. However, other scholars including those from the *Mālikī* and *Shāfi'ī* schools of thought do not consider the carrying of weapons to be a requirement. They state that merely the taking of wealth by force is sufficient to include these criminals under this category, even if they do not possess anything other than the strength of their own hands.

يعتزلوا عن دار العدل بدار ينحازون إليها ويميزون بها

THEY OPERATE IN REMOTE AREAS

This is the opinion of the *Hanafī* and *Hanbalī* schools of thought. However the rest of the schools; the *Mālikī* and *Shāfi'ī*, and also some of the scholars of the aforementioned schools (*Hanafī* and *Hanbalī*), argue that this should not be a condition. Therefore, if wealth is taken and blood is spilled unlawfully using force, then this is sufficient even if it were in areas under the full control and authority of the Islāmic state, and they are intermingled with the obedient Muslims.

ذكورية

MALE

However, in reality the *Hanafī's* are the only ones to stipulate this condition. The *Mālikī's*, *Hanbalī's*, and *Shāfi'ī's*, all agree that if a woman were to

engage in such activities she would be treated and dealt with in just the same manner as the man would be.

المجاهرة

AL-MUJĀHHARAH

This means that the robberies (and other crimes) are enacted in an outright and blatant manner, with the victims being forced to give up their wealth, property, or belongings, under threat. As opposed to the one who sneaks and steals without the victim's knowledge. In this case, the crime would fall under the category of theft.

العقوبة المحارِبين

THE PUNISHMENT FOR AT-TĀ'IFAH AL-MUHĀRIBAH

The scholars of *Fiqh* have agreed that the ones that (illegitimately) engage in the spilling of blood and seizing the wealth forcefully are executed as a recompense for their crimes.

The punishment is not waived, nor is repentance excepted, if those in authority apprehend them before they repent to Allāh and amend their ways, abandoning their former criminal lifestyles.¹⁴⁴

Their punishment is a *Hadd* from the *Hudūd* of Allāh. The evidence for this is in the statement of Allāh, the Most Just,

﴿إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ۚ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا ۗ وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ۖ إِلَّا الَّذِينَ تَابُوا مِنَ قَبْلِ أَنْ تَقَدَّرُوا عَلَيْهِمْ ۖ فَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾

Indeed, the penalty for those who wage war against Allāh and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment. Except for those who return [repenting] before

¹⁴⁴ However, even if they do repent before they are apprehended, they are still required to return any rights of the Muslims that they have violated. Therefore they may still be executed, not as a punishment for their banditry, but as *Qisās* (retaliation) for their killing a soul that Allāh has forbidden.

you overcome [i.e., apprehend] them. And know that Allāh is Forgiving and Merciful.¹⁴⁵

As found in the above verse, four punishments are mentioned:

1. Execution
2. Crucifixion
3. Amputating the hands and feet from opposite sides, and
4. Exile

Some of the *Salaf* said that it was up to the ruler to choose any one of the four punishments according to which he deemed was most beneficial according to the situation. However, the majority of the Islāmic scholars differed with this. They said that the one(s) who robbed and killed their victims should be executed and crucified, the ones who robbed their victims without killing them should have their hands and feet amputated from opposing sides, while those who prevented people from travelling freely and generally terrorising and molesting them, without killing or robbing should be exiled from the land. This is the opinion of the *Shāfi'ī*, *Hanbalī*, and some from the *Hanaftī* school of thought. However, the *Shāfi'ī*'s regard the punishment of exile as a 'discretionary punishment'¹⁴⁶ that may be dropped by the ruler if he sees a benefit in that.¹⁴⁷

كيفية تنفيذ العقوبة؟

HOW IS THE PUNISHMENT TO BE CARRIED OUT?

As has been mentioned, the scholars have stated that the one(s) who prevented people from travelling along the route(s) and terrorised them without killing or robbing should be banished and exiled from the land.

¹⁴⁵ *Al-Mā'idah* (5):33-34

¹⁴⁶ i.e. not *Wājib*

¹⁴⁷ Refer to *al-Jāmi' al-Ahkām* (3/512-514)

The punishment of execution should be carried out, according to the majority of scholars; the *Hanaḥī's*, *Mālikī's*, and one opinion from the *Shāfi'ī* and *Hanbalī* schools, as a *Hadd*.¹⁴⁸ Therefore, regardless of the manner in which the victim(s) are murdered, the killer is executed with the sword.¹⁴⁹ The second opinion, that of *Shāfi'ī* and some of the *Hanbalī's* is that the punishment should be carried out as a *Qisās*. So, in whatever way the killer murdered he should be executed in the same fashion.

Concerning the punishment of crucifixion, the *Hanaḥī* and *Mālikī* schools say that the offender(s) should be crucified alive, and then executed while they are in that state (i.e. being crucified). While the *Shāfi'ī's* state that the offender(s) should be crucified alive, then brought down and executed. However, the *Hanbalī's* and some of the *Shāfi'ī's* reason that, the offender(s) should be executed first and then crucified.

After being crucified for three days¹⁵⁰ and executed, they should be washed, wrapped in white sheets, prayed over and then buried.¹⁵¹ Although, those scholars that ruled that crucifixion should take place after execution, say that the offender(s) should be executed, then washed, wrapped in white sheets, prayed over, crucified, and then buried.

In the case of amputation, the right hand and left foot should be amputated.¹⁵²

¹⁴⁸ As opposed to *Qisās* (Legal retaliation), in which the offender is punished in the same way that he/she killed or wounded their victim(s)

¹⁴⁹ i.e. their heads are amputated with one strike of a sharp sword. Ibn Qudāmah says in *al-Mughnī*, "They are killed with the sword, as it is the instrument of execution."

¹⁵⁰ Most of the scholars state that the crucifixion should not be for longer than three days

¹⁵¹ In accordance with Islāmic burial rites

¹⁵² The hand should be amputated at the wrist, and the foot should be amputated at the ankle and then cauterised (or the like, so the amputee does not bleed to death)

متى تسقط الحد؟

WHEN IS THE PUNISHMENT WAIVED?

The punishment is waived for such individuals who repent (and amend their ways) before they are apprehended. The evidence for this is in the statement of Allāh, the Most Kind:

﴿إِلَّا الَّذِينَ تَابُوا مِنْ قَبْلِ أَنْ تَقْدِرُوا عَلَيْهِمْ ۖ فَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾

*... Except for those who return [repenting] before you overcome [i.e., apprehend] them. And know that Allāh is Forgiving and Merciful*¹⁵³

Nevertheless, according to the majority of scholars, the rights of the victims must be recompensed, and cannot be waived merely because of the offender's repentance. Therefore, if someone kills, then the punishment for this is not waived except if the family of the deceased forgive the killer or make a deal, likewise for the one who injures, or steals the wealth of another Muslim.

¹⁵³ Al-Mā'idah (5):34

الحكم الطائفة المحرّبة

THE ISLĀMIC RULING ON AT-TĀ'IFAH AL-MUHĀRIBAH

The Islāmic ruling on the Muslim who does not commit any of the nullifiers of Islām, but commits major sins, such as the forceful seizing of impermissible wealth and shedding impermissible blood terrorising and fighting against the Muslims,¹⁵⁴ is that it is *Wājib* to fight against such a person/people in order to avert their harm from the Muslims. If apprehended before they repent, their punishment(s) are as have already been discussed. However, if they repent before they are apprehended, then the punishment is to be waived according to the Noble Qur'ān.

Shaykh al-Islām Ibn Taymiyyah, may Allāh have mercy upon him, states, “If a rebellious group, although belonging to Islām, refuses to comply with clear and universally accepted commands, all Muslims agree that *Jihād* must be waged against them, in order that the religion will be for Allāh in totality.”¹⁵⁵

As such, Allāh said,

﴿وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ كُلُّهُ لِلَّهِ﴾

﴿And fight them until there is no fitnah and [until] the religion, all of it, is for Allāh.﴾¹⁵⁶

¹⁵⁴ i.e. Crimes that put the offender in to the category of *at-Tā'ifah al-Muharribah*

¹⁵⁵ *As-Siyāsah as-Shar'iah*, p.160

¹⁵⁶ *Al-Anfāl* (8):39

BIBLIOGRAPHY

The Qur'ān, *Saheeh International Translation*, (2010) Maktabah Booksellers and Publishers, Birmingham

Hijrah... So Flee to Allāh, First Edition (2017), Distance of a Month's Journey Publications

Abū Hamzah, *Khawaarij and Jihaad*, Publisher Unknown (however, the book is available online in PDF form)

Al-Barbahaaree, *Explanation of the Creed (Kitaab Sharh as-Sunnah)*, Al Hidaayah Publishers and Distributors, Birmingham

Al-Maqdisī, Abū Muhammad, *Ar-Risālah ath-Thalāthīniyah fī at-Tahtih min al-Ghulū fī t-Takfīr*, Minbar at-Tawhīd wa'l-Jihād

Al-Maqdisī, ibn Qudāmah, *al-Mughnī*, Daar al-‘Ālam al-Kutub, Riyadh

Al-Mubarakpuri, *The Sealed Nectar: Biography of the Noble Prophet ﷺ*, (1996), Maktaba Dar-us-Salam Publishers and Distributors, Riyadh

Al-Qurtubī, *al-Jāmi' al-Ahkām al-Qur'ān*, (2007) Dar el-Hadith Publishing and Distributing, Cairo

An-Nawawī, *al-Manhaj Sharh al-Jāmi' as-Sahīh*, (2016) Dār al-Mustafā, Damascus

Ash-Shawkānī, *Fath al-Qādir*, Dar Al-Marefah, Beirut

As-Sa'dī, *Taysīr al-Karīm ar-Rahmān*, First Edition (2000) Mu'assasah Ar-Risālah

As-San'ānī, *Subul as-Salām: Sharh Bulūgh al-Marām*, Third Edition (2009), Jaami'ah Ihyā'a at-Turāth al-Islāmī / Maktabah ar-Rābi'ah, Kuwait

As-Suyūṭī and al-Mahalī, *Tafsīr Jalālayn*, (2014) Dār al-Mustafā, Damascus

Dr. 'Ali Muhammad as-Salaabee, *The Noble Life of the Prophet ﷺ*, First Edition (2005), Maktaba Dar-us-Salam Publishers and Distributors, Riyadh

Essay Regarding the Basic Rule of the Blood, Wealth, and Honour of the Disbelievers, at-Tibyān Publications

Foundations of the Sunnah, Second Edition (2003) Salafi Publications, Birmingham

Ibn an-Nuhhās, *Mashari al-Ashwaq ila Masari al-Ushaaq [English translation]*, in *Milestones (Special Edition)*, pp.263-392, Maktabah Publishers and Distributors, Birmingham

Ibn an-Nuhhās, *Mashāri' al-Ashwāq Ilā Masāri' al-'Ushāq wa Muthīr al-Gharām Ilā Dār as-Salām*, Minbar at-Tawhīd wa'l-Jihād

Ibn Kathīr, *Tafsir ibn Kathir (Abridged)*, Second Edition (2003), Darussalam Publishers, Riyadh

Ibn Kathīr, *The Life of the Prophet Muhammad: As-Sīra al-Nabawiyyah*, First Edition (1998), Garnet Publishing, Reading

Ibn Rajab al-Hanbalī, *Jāmi' al-'Ulūm wa'l-Hikam*, (2014), al-Maktabah al-'Asriyyah, Beirut

Ibn Qayyim al-Jawziyyah, *Provisions for the Hereafter (Mukhtasar Zad al-Ma'ād)*, Maktaba Dar-us-Salam Publishers and Distributors, Riyadh

Ibn Taymiyyah, *as-Siyāsah ash-Sharī'ah: fī Islāh ar-Rā'ī wa'r-Ra'īyyah*, Dār Ilm al-Fawā'id Publishing and Distribution, Makkah

Ibn Taymiyyah, *Mukhtasar as-Sārim al-Maslūl 'alā Shātim ar-Rasūl ﷺ*, First Edition, Dār al-'Ilm al-Fawā'id Publishing and Distribution, Makkah

Ibn Taymiyyah, *The Book of Eemaan*, Al-Firdaws Ltd., London

J. Zarabozo, *Commentary on the Forty Hadīth of an-Nawawī*, Dār al-Bashīr Publishing and Distribution

Safiur-Rahman al-Mubarakpuri *The Sealed Nectar: Biography of the Noble Prophet*, (1996) Maktaba Dar-us-Salam Publishers and Distributors, Riyadh

Von Denffer, *'Ulum al-Qur'ān: An Introduction to the Sciences of the Qur'ān*, The Islamic Foundation, Leicestershire

Y. Qadhi, *An Introduction to the Sciences of the Qur'aan*, First Edition
(1999), Al-Hidaayah Publishing and Distribution, Birmingham

مسيرة شهر

